

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	File No. 18-CR-90
)	(RWP/CFB)
Plaintiff,)	
)	
v.)	St. Paul, Minnesota
)	September 12, 2018
Robert Phillip Ivers,)	8:30 a.m.
)	
Defendant.)	

BEFORE THE HONORABLE ROBERT W. PRATT
UNITED STATES DISTRICT COURT JUDGE
(JURY TRIAL - VOLUME II)

APPEARANCES

For the Plaintiff:	U.S. ATTORNEY'S OFFICE
	TIMOTHY RANK, AUSA
	JULIE ALLYN, AUSA
	300 S. 4th St., #600
	Minneapolis, Minnesota 55415
 For the Defendant:	 KELLEY, WOLTER & SCOTT, P.A.
	DANIEL SCOTT, ESQ.
	BRETT KELLEY, ESQ.
	431 S. 7th St., #2530
	Minneapolis, Minnesota 55415
 Court Reporter:	 DEBRA K. BEAUVAIS, RPR-CRR
	300 S. 4th St., #1005
	Minneapolis, Minnesota 55415

Proceedings recorded by mechanical stenography;
transcript produced by computer.

I N D E X

PAGETERIANNE BENDER

Cont. Direct Examination by Mr. Rank	124
--------------------------------------	-----

Cross-Examination by Mr. Kelley	128
---------------------------------	-----

JEFFREY HATTERVIG

Direct Examination by Ms. Allyn	142
---------------------------------	-----

Cross-Examination by Mr. Kelley	232
---------------------------------	-----

Redirect Examination by Ms. Allyn	271
-----------------------------------	-----

HEATHER ARENT-ZACHARY

Direct Examination by Ms. Allyn	281
---------------------------------	-----

Cross-Examination by Mr. Kelley	306
---------------------------------	-----

Redirect Examination by Ms. Allyn	312
-----------------------------------	-----

Recross-Examination by Mr. Kelley	314
-----------------------------------	-----

TIFFANY SANDERS

Direct Examination by Mr. Rank	315
--------------------------------	-----

Cross-Examination by Mr. Kelley	354
---------------------------------	-----

Redirect Examination by Mr. Rank	368
----------------------------------	-----

LORA FRIEDMANN

Direct Examination by Mr. Rank	370
--------------------------------	-----

Cross-Examination by Mr. Kelley	393
---------------------------------	-----

GOVERNMENT EXHIBITS

8-9	125
-----	-----

12	155
----	-----

13	194
----	-----

15	382
----	-----

24	297
----	-----

25	318
----	-----

26	323
----	-----

28	335
----	-----

29	342
----	-----

P R O C E E D I N G S**IN OPEN COURT**

THE COURT: Please be seated. Good morning, ladies and gentlemen of the jury. Good morning, Counsel, Mr. Ivers.

When we left yesterday, Mr. Rank was examining Ms. Bender on behalf of the United States. So, Counsel, do you want to proceed.

MR. RANK: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY MR. RANK:

Q. Good morning, Ms. Bender.

A. Good morning.

Q. Ms. Bender, when we left off, I think I had a couple of exhibits that were sitting in front of you that I had started to ask you about and then I moved on to a different exhibit. Do you have Exhibits 8 and 9 in front of you?

A. Yes.

Q. And those have been marked for identification as 8 and 9. They've not yet been admitted. Do you recognize both of them?

A. Yes.

Q. And what is shown in Exhibit 8?

A. That is an envelope addressed to Magistrate Judge Becky

1 Thorson with some pages inside.

2 Q. And then how about what's in Exhibit 9?

3 A. Papers that are identical to the papers that are in the
4 envelope.

5 Q. And the last page, what's been marked for identification
6 as Exhibit 9, is there also a copy of the front and back of
7 the envelope?

8 A. Yes.

9 MR. RANK: I'd offer Exhibit 8 and 9.

10 MR. KELLEY: No objection, Your Honor.

11 THE COURT: Received.

12 BY MR. RANK:

13 Q. I'll put up on the screen -- first of all, Ms. Bender,
14 I'm showing the first page of Exhibit 8 on the screen?

15 A. Yes.

16 Q. We had looked at some exhibits yesterday that came into
17 your chambers. One of them was a similar envelope dated
18 also -- postmarked August 25th; is that correct?

19 A. Correct.

20 Q. And this one, you said it's similar to the other
21 letters; is that correct?

22 A. Yes.

23 Q. And this one is to Magistrate Judge Becky Thorson?

24 A. Correct.

25 Q. I'm going to show you then the next page. Is there

1 something on the back of that envelope, Ms. Bender?

2 A. Yes, there is.

3 Q. And am I showing to you the back of the envelope?

4 A. You are.

5 Q. And then going on to Exhibit 9. Exhibit 9, this is a
6 photocopy of an envelope and then the papers that were
7 inside that envelope; is that correct?

8 A. Yes.

9 Q. And if we look then at Exhibit 9, can you tell me what
10 the last page of Exhibit 9 is, Ma'am?

11 A. It is the back of an envelope.

12 Q. And is there a page number on the bottom of it?

13 A. Page 2.

14 Q. I need to take you to Exhibit 9, don't I. I apologize.
15 There we go.

16 That is the back of the envelope?

17 A. Yes, it is.

18 Q. And am I then showing the front of that envelope?

19 A. Yes.

20 Q. So, Ms. Bender, I think we've looked at four different
21 letters that were sent containing the same material on the
22 same date, August 25th; one to Judge Wright's chambers, one
23 to the Chief Judge, one to the Clerk of Court, and one to
24 Judge Thorson?

25 A. Yes. Correct.

1 Q. And this is August 25th, 2017, correct?

2 A. Yes.

3 Q. We had looked at some other series of other letters
4 yesterday, and I just want to briefly touch on them. They
5 come in over a period of time starting on the 9th of August,
6 and then going on to the 22nd of August, and then another
7 batch on the 25th of August; is that right?

8 A. Yes.

9 Q. And the ones -- going back to the first of those letters
10 that came in August of 2017 from Mr. Ivers -- showing
11 Exhibit 3, and I'm on page 1 of Exhibit 3 -- that's where we
12 saw the language that we see in a number of the letters that
13 says, "Judge Wright has treated me unfairly from the
14 beginning of my case"?

15 A. Yes.

16 Q. That's the first of a series of letters, correct?

17 A. Correct.

18 Q. And then going on to the next in the series of letters
19 that were sent on the 22nd of August, we're looking at --
20 I'm going to show you one of those. This is the letter.
21 The first letter said "treated unfairly". The second letter
22 that I am showing right now refers to Judge Wright cheating
23 Mr. Ivers; is that right?

24 A. Correct.

25 Q. And then the last of that series of letters where

1 they're coming in pretty quick succession, is that -- sorry,
2 Exhibit 11. There we go. This is Exhibit 11, and this is
3 the last of the series that comes in on August 25th?

4 A. Yes.

5 Q. And this one refers to Judge Wright as a "corrupt"
6 judge?

7 A. Yes.

8 Q. And is that true with respect to each one of those
9 letters that came into the court, to Judge Wright's
10 chambers, to Judge Thorson, to the Clerk of Court, and to
11 the Chief Judge?

12 A. Yes.

13 MR. RANK: Thank you very much, Ms. Bender. I
14 have no further questions.

15 THE COURT: Mr. Kelley, would you like to
16 cross-examine?

17 MR. KELLEY: Yes, Your Honor.

18 THE COURT: You may.

19 MR. KELLEY: I just need a second here to plug in,
20 Your Honor.

21
22 **CROSS-EXAMINATION**

23 **BY MR. KELLEY:**

24 Q. Good morning, Ms. Bender.

25 A. Good morning.

1 Q. So I want to go over a few things that you discussed
2 with Mr. Rank about the civil jury trial.

3 A. All right. Yes.

4 Q. So I'm going to go back to the docket first. You don't
5 have any of these in front of you?

6 A. I don't anymore.

7 Q. Any exhibits up there?

8 THE LAW CLERK: No.

9 BY MR. KELLEY:

10 Q. So docket number 1, entry number 1, says that the case
11 was removed from state court to federal court on March 23rd,
12 2015, correct?

13 A. I believe that was it. Yes.

14 Q. Is that your memory?

15 A. Yes.

16 Q. And then do you remember docket number 87, the text-only
17 order that denied the jury trial?

18 A. I don't remember it, if it was 87.

19 Q. I will put 87 up here for you to look at while I think
20 the exhibits are coming out.

21 A. Thank you.

22 Q. So you see 87 up here, the text-only order?

23 A. Yes.

24 Q. And that is dated 11-14-2016? Is that when you entered
25 it?

1 A. That's not when I entered it. That would've been --
2 when you see it says "CC," corrected entry -- no, I take
3 that back. I'm sorry. Yes, that's when I would have
4 entered it.

5 Q. It was you that entered that?

6 A. I entered the text-only notice, yes.

7 Q. But the Judge gave you the language to put in this text
8 only order, correct?

9 A. Correct.

10 Q. So those are her words?

11 A. Correct.

12 Q. You just entered it?

13 A. Correct.

14 Q. Okay. Let's talk about Rule 38 and Rule 39. Are you
15 familiar with those rules?

16 A. No.

17 Q. Rule 38(b), "Demand. On any issue triable of a right by
18 a jury" --

19 MR. RANK: Objection, reading something into the
20 record --

21 THE COURT: Sustained.

22 BY MR. KELLEY:

23 Q. Okay. I'll move on here.

24 So you sat through the insurance trial?

25 A. I would have been in and out. If I was at my desk, I

1 would have been watching it on the screen to see if the
2 Judge needed anything. I was in for -- sometimes I was in
3 the courtroom, yes.

4 Q. But you generally watched pretty much the entire trial?

5 A. Yes.

6 Q. And you were also there for the pretrial hearing on
7 January 4th, 2017, correct?

8 A. Yes.

9 Q. So you got to observe Mr. Ivers' behavior?

10 A. Yes.

11 Q. Okay. Can you tell us what contempt of court means?
12 Are you familiar with that term?

13 A. I'm familiar with the term, but I wouldn't know if
14 somebody could be charged with it or not. I mean, I don't
15 know what the standards are or --

16 Q. Well, so if somebody comes into court and disobeys a
17 rule, procedure, or law, the judge can hold them in contempt
18 of court? Does that sound familiar to you?

19 A. I don't know. It's vaguely familiar. I'm not trained
20 legally, so I leave the statutes and the rules to the Judge
21 and the law clerks, and I file what they tell me to file.
22 That's it.

23 Q. You testified that Mr. Ivers asked good questions. He
24 didn't know what he was doing, though, did he?

25 A. He asked some very good questions at times and other

1 times he would go off track.

2 Q. But he's not an attorney, is he?

3 A. No. No.

4 Q. He doesn't really understand the rules of procedure very
5 well? Was that your understanding from the trial?

6 A. I would think that's probably true of most lay people,
7 that they don't.

8 Q. He probably didn't understand the rules of evidence very
9 well either?

10 A. Unless he looked them up, I don't know. He wasn't
11 trained in it.

12 Q. So during the trial he didn't do anything inappropriate
13 enough to be yelled at by the Judge, did he?

14 A. Well, she doesn't yell. She did have to say "Mr. Ivers"
15 a few times to -- in a strong voice to get him to stop the
16 questioning or -- usually stop the questioning or arguing
17 with her.

18 Q. But he wasn't swearing in open court a lot?

19 A. No. No, he wasn't.

20 Q. And he wasn't yelling at the Judge?

21 A. No, I would not say he was yelling at the Judge.

22 Q. So he was behaving appropriately?

23 A. For the most part, yes.

24 Q. Okay. He didn't do anything illegal in court, did he?

25 A. No.

1 Q. He wasn't charged with any crimes for anything he did
2 during the pretrial hearing --

3 A. No.

4 Q. -- or during the actual jury trial, was he?

5 A. No, he wasn't.

6 Q. So he acted appropriately during both of those?

7 A. Yes.

8 Q. Now I want to go through some of the filings that you
9 went through with Mr. Rank. First I'm going to turn to the
10 Findings of Fact, Conclusions of Law Order. So this is the
11 order dismissing the entire case, right?

12 A. Correct.

13 Q. And that was filed on June 29th, 2017?

14 A. Yes.

15 Q. So you and Mr. Rank went over paragraph 15, which I'm
16 putting up here, which essentially says that Mr. Tallman had
17 falsified a claim on his insurance application and,
18 therefore, she was going to deny him? Is that what
19 paragraph 15 says essentially?

20 A. That there was a falsification on the application, yes.

21 Q. Okay.

22 A. And/or misleading.

23 Q. Okay. Paragraph 60, Judge Wright did not find that
24 Mr. Ivers made that falsified statement, did she?

25 A. She does not know who filled out the application.

1 Q. That was a yes or no question. So she did not find that
2 Mr. Ivers falsified any statements on that application, did
3 she?

4 A. She did not find anyone filled out the application.

5 Q. So she does not know and did not make any findings that
6 Mr. Ivers made any false statements on the application?

7 A. Correct. Correct.

8 Q. Next we're going to go through the series of mailings
9 that came to the Court.

10 A. Yes.

11 Q. Some to Judge Wright?

12 A. Yes.

13 Q. And then to some of the other judges that you were just
14 aware of?

15 A. Right.

16 Q. So some of them are to Judge Wright, a couple of them?

17 A. Yeah, two or three. Usually --

18 Q. So two or three mailings to Judge Wright?

19 A. If it goes to the Clerk of Court, it also in effect
20 comes to Judge Wright.

21 Q. Okay. And then several others to Judge Thorson or Judge
22 Tunheim, but not directly to Judge Wright, correct?

23 A. Correct.

24 Q. Do you remember this one? It's Government's Exhibit 1.
25 So this is Exhibit 1. Do you remember this one? It is

1 postdated October 31st, 2016. It is a letter to the Court,
2 Judge Wright. I'll flip the page here. Nothing on the back
3 page. This is him demanding his jury trial?

4 A. Right.

5 Q. Do you remember this?

6 A. Yes.

7 Q. Okay. So Judge Wright received this in 2016. Is
8 Mr. Ivers charged with anything that was said in this
9 letter?

10 A. No.

11 Q. Today he is only charged with what he said on February
12 27th, 2018, correct?

13 MR. RANK: Objection, foundation.

14 THE COURT: Overruled.

15 BY MR. KELLEY:

16 Q. You understand Mr. Ivers is on trial for only what he
17 said on February 27, 2018, correct?

18 A. No, I have no idea what the charges against him are.

19 Q. But he is not charged with anything he said in this
20 letter to Judge Wright on October 31st, 2017, right?

21 MR. RANK: Objection.

22 THE COURT: Sustained. Sustained.

23 BY MR. KELLEY:

24 Q. You said "no" earlier?

25 A. Well, I didn't understand the question. I thought that

1 you meant right at that time, when we got it, was he charged
2 with anything.

3 Q. I will ask another question here.

4 So we're going to go to Exhibit 3. I believe this
5 is chronological. So that was October 31st, 2016. Now
6 we've moved forward to August 14th, 2017. Do you remember
7 Exhibit 3 here?

8 A. Yes.

9 Q. Okay. So this is a letter to Judge Tunheim, who's the
10 Chief Judge, and Magistrate Thorson. And it's dated --
11 well, it was received by the court August 14th, 2017?

12 A. Yes.

13 Q. So it was not sent directly to Judge Wright, correct?

14 A. I do believe we received a copy of it.

15 Q. But it was not sent directly to her?

16 A. Yes, I do believe he sent us directly a copy of it.

17 Q. Might be one of these other ones, correct?

18 A. But it wasn't addressed Dear Judge Wright.

19 Q. But, again, Mr. Ivers is not charged with anything
20 that's contained in this, correct?

21 A. I have no idea.

22 MR. RANK: Objection, foundation.

23 THE COURT: Sustained.

24 BY MR. KELLEY:

25 Q. I'll skip forward here a couple months to August 2017.

1 Okay. So they're a series of letters, Exhibit 4, to Chief
2 Judge Tunheim that is dated August -- 22nd, 2017 is postmark
3 on it. Do you remember looking at this with Mr. Rank?

4 A. Yes.

5 Q. This was the one where Mr. Ivers goes through,
6 highlights, underlines various things asking for a new
7 trial, correct? Asking for a decision to be --

8 A. I assume. It's hard for me to see that. Sorry. Thank
9 you.

10 Q. Is that a little better?

11 A. Yes.

12 Q. Sorry. So he is asking for the decision to be reversed?

13 A. Right.

14 Q. Okay. So that's August 22nd, 2017, right?

15 Again, this August 5th -- or August 22nd, 2017,
16 very similar letter, just a copy of the previous one you
17 think?

18 A. Yes.

19 Q. Sent to the Clerk of Court?

20 A. Right, and then routed to us.

21 Q. Basically the same letter? Basically the same letter?

22 A. Yes. Yes.

23 Q. Exhibit 6, Magistrate Thorson. This is just another
24 copy of that same letter, right?

25 A. Yes. Correct.

1 Q. It's postdated August 22nd, 2017. Same letter, correct?

2 A. Yes.

3 Q. So those letters are all postdated August 22nd, 2017,

4 and the Judge would've received them a few days after that,

5 right?

6 A. Correct.

7 Q. After that, Mr. Ivers did not send any correspondence

8 directly to Judge Wright, did he?

9 A. I do believe he did, but I'm not positive. I'd have to

10 refresh my memory. We received quite a few mailings from

11 him, so --

12 Q. Right. So after August 2017, after that he files a new

13 lawsuit a few months later. Are you aware of that?

14 A. I am not.

15 Q. I'll show you one more August -- or this is Exhibit 11.

16 A. Okay.

17 Q. Okay. This is postdated August 25th, 2017, Chief Judge

18 Tunheim.

19 A. Uh-huh.

20 Q. This is the one where he says Judge Wright is "corrupt"?

21 A. Right.

22 Q. Do you remember this one?

23 A. Yes.

24 Q. And then I'll show you Exhibit 8. This is just a copy

25 that you just testified about, right?

1 A. Right.

2 Q. This is Magistrate Thorson, basically the same thing,
3 right?

4 A. Right.

5 Q. Okay. You just went over all those letters with the
6 government. There isn't one after August 25th, 2017 that
7 you just went over, is there?

8 A. No.

9 Q. Did Mr. Ivers call Judge Wright after that point?

10 A. I don't --

11 Q. Yes or no.

12 A. I'd actually have to look at the docket sheet to see if
13 we did a response to something.

14 Q. Okay. Let's look at that.

15 A. There was a call asking for a new trial. I can't
16 remember the date on it and when we put all of that out, was
17 that -- I don't know if that was before --

18 THE COURT REPORTER: Could you pull the microphone
19 closer to you. Thank you.

20 BY MR. KELLEY:

21 Q. So that was August 25th. Do you have the docket in
22 front of you?

23 A. I don't. I think it's one of the first things we looked
24 at.

25 Q. Here is the docket.

1 A. Thank you. Okay. I do believe that was the last one,
2 the August 25th. Thank you.

3 Q. So Mr. Ivers' last correspondence directly to Judge
4 Wright was at the end of August 2017?

5 A. Yes.

6 Q. No phone calls after that?

7 A. Correct.

8 Q. So after these August 22nd phone calls -- or mailings,
9 rather -- excuse me.

10 I'm going to move back to kind of your background
11 here. Okay. So you work in the building up two floors, on
12 the third floor?

13 A. Yes.

14 Q. And that's where Judge Wright's chambers is?

15 A. Correct.

16 Q. And that's where her courtroom is?

17 A. Yes.

18 Q. And that's where the insurance trial from 2017 was, too?

19 A. Correct.

20 Q. A couple floors up?

21 A. Yes.

22 Q. Okay. And you answer the mail for Judge Wright,
23 correct?

24 A. I open and look at the mail, yes.

25 Q. And if somebody walks into her chambers, you're one of

1 the first people they see when they come in, right?

2 A. Correct.

3 Q. So somebody walks in that doesn't work there, they're
4 going to see you first, generally?

5 A. Yes.

6 Q. Judge Wright was subpoenaed for this trial, wasn't she?

7 MR. RANK: Objection, relevance.

8 THE COURT: Overruled -- or sustained. I'm sorry.
9 Ladies and gentlemen, I didn't get a chance to sustain that
10 before, so you should ignore the response that came in and
11 the question. You'll remember from the instructions
12 questions by the lawyers are not evidence.

13 MR. KELLEY: One second, Your Honor.

14 (A brief discussion was held off the record.)

15 MR. KELLEY: No further questions, Your Honor.

16 THE COURT: All right. Mr. Rank, any follow-up?

17 MR. RANK: No, Your Honor.

18 THE COURT: You may be excused. Thank you.

19 THE WITNESS: Thank you.

20 THE COURT: Ms. Labriola is training me with the
21 lights, so you've got to give me a little patience here.

22 Mr. Rank, I would assume Ms. Allyn is retrieving
23 the witness?

24 MR. RANK: That's a fair assumption, Your Honor.

25 MS. ALLYN: Apologize, Your Honor. The witness is

1 on his way in the elevator.

2 THE COURT: All right.

3 MR. RANK: I believe the government will be
4 calling Deputy U.S. Marshal Jeffrey Hattervig, Your Honor.

5 THE COURT: All right.

6 MS. ALLYN: I apologize, Your Honor. He is
7 coming. Some miscommunication. I apologize to the jury for
8 your time. It will be Deputy U.S. Marshal Hattervig,
9 Jeffrey Hattervig.

10 THE COURT: Marshal, would you step into the
11 witness box, please, and then while standing if you would
12 look at the ladies and gentlemen and raise your right hand
13 to be sworn.

14 (Witness administered oath by the Court.)

15 THE COURT: Please be seated.

16 Counsel, you may proceed.

17 MS. ALLYN: Thank you, Your Honor.

18
19 **JEFFREY HATTERVIG**

20 **DIRECT EXAMINATION**

21 **BY MS. ALLYN:**

22 Q. Good morning.

23 A. Good morning.

24 Q. Sorry, there was some miscommunication about where to be
25 when this morning; isn't that true?

1 A. Yes.

2 Q. So I apologize. Thank you for getting here as quickly
3 as possible.

4 A. Sure.

5 Q. Can you let the jury know your name and where you work.

6 A. Jeff Hattervig. I work for the U.S. Marshal Service.

7 Q. And what is your job title there?

8 A. I'm a supervisory Deputy U.S. Marshal.

9 Q. How long have you worked for the Marshal Service?

10 A. A little over 20 years.

11 Q. And what is your current job assignment there?

12 A. I supervise the Fugitive Task Force.

13 Q. How long have you had that assignment?

14 A. A little over a year now.

15 Q. What was your previous assignment before supervising the
16 Task Force?

17 A. I did one year as a protective intelligence
18 investigator.

19 Q. Is that also commonly referred to as a PII position?

20 A. Yes.

21 Q. That stands for?

22 A. Protective intelligence investigator, PII.

23 Q. And what does that mean?

24 A. Well, it's a job that -- it's an investigator who looks
25 into any sort of threat or inappropriate communication to

1 any Marshal Service protectee.

2 Q. And what are some examples of a Marshal Service
3 protectee?

4 A. Anybody involved in the court system: the judge, the
5 court staff, the jurors, the witnesses, the lawyers.

6 Q. What was your time span of being PII?

7 A. I started sometime around the fall of 2016 and then
8 ended one year later, fall of 2017.

9 Q. Is that so you could move on and be with the Task Force?

10 A. Yes.

11 Q. Do you know a person by the name of Robert Ivers?

12 A. Yes.

13 Q. Generally how is it that you know him?

14 A. That was one of the cases I worked during the year I was
15 protective intelligence investigator. He had done some
16 mailings and some communications to various court employees.

17 Q. You said it's a case you had worked. Do you open up a
18 file, like a case on people?

19 A. Yes. You know, I'll open a case under his name, and all
20 of the communications that are causing the problems will be
21 saved under that case.

22 Q. What can cause you to open up a case?

23 A. Usually I'm contacted by a court employee saying that
24 they were uncomfortable with some sort of communication they
25 felt might've been a threat, and then I would open a case

1 and investigate.

2 Q. Did you ever meet Mr. Ivers?

3 A. Yes.

4 Q. Do you see him here in the courtroom today?

5 A. Seated at defense table on the left, my left.

6 Q. So your left wearing a blazer?

7 A. Yes.

8 MS. ALLYN: If the record could reflect the
9 witness has identified the defendant, Mr. Ivers.

10 THE COURT: It may.

11 MS. ALLYN: Thank you, Your Honor.

12 BY MS. ALLYN:

13 Q. So how did you first come to know of Mr. Ivers?

14 A. I was contacted by Terianne Bender, who works in Judge
15 Wilhelmina Wright's office. She had received a letter that
16 had some handwritten notes on it, and she had forwarded it
17 to me because it was concerning to her.

18 Q. So you received that letter?

19 A. Yes.

20 Q. I'm going to show you what has been entered into
21 evidence as Exhibit 1. Do you see that on your screen
22 there?

23 A. Yes.

24 Q. It's multiple pages. I'll page through it. Back of the
25 envelope, page 3. Let me get a bigger screen picture of

1 that.

2 Are you recognizing this Exhibit 3?

3 A. Yes.

4 Q. And how is it that you recognize it?

5 A. That would've been -- well, there were several letters
6 over the course of the case. I think this was probably the
7 first one that came in that was sent to me by Judge Wright's
8 chambers.

9 Q. I'll go back to page 1 and show you the postmark. Can
10 you see that now, the postmark?

11 A. Yes.

12 Q. And what's the date on that?

13 A. October 31st, 2016.

14 Q. So is this the first letter that you received with
15 respect to Mr. Ivers?

16 A. I believe so. Yes.

17 Q. And what did you do when you received this letter?

18 A. I made digital copies of it and uploaded it into our
19 computer system, and I opened a case and began working the
20 case.

21 Q. You said you uploaded it into your system. I'm going to
22 move to page 3. Is there a notation in the upper,
23 right-hand corner of this letter?

24 A. Yes.

25 Q. And I'm blowing that up for you, what does it say?

1 A. "Entered in JDIS." That's our computer system.

2 Q. What's the significance? What does that mean that
3 that's stamped like that?

4 A. Well, that's my own stamp. It's just a reminder to me
5 that I've scanned it and put it into the computer system so
6 I know that I don't need to do it again.

7 Q. Okay. So let's break up piece by piece what you did.
8 You scan it into your system. What do you do next?

9 A. Then I begin looking into the person who sent it, their
10 background, criminal history, sort of looking into the facts
11 of what they were complaining about or what their case is
12 about, and just trying to figure out what the problem is.

13 Q. So looking at Exhibit 1, if we were to go to page 5 --
14 and I'll blow up what's numbered 8 and 9 -- do you remember
15 reading that in this letter, 8 and 9? If you could read
16 that into the record.

17 A. Read 8, 9?

18 Q. Yes, please.

19 A. "I am in dire fucking straits. I am becoming a very
20 dangerous person. Bob Ivers."

21 Q. And was this meaningful to you, this communication?

22 A. Yes.

23 Q. How so?

24 A. Well, it's -- I would call it a veiled threat. Seems to
25 be meant to cause some sort of intimidation to the reader.

1 Q. And so does that mean you need to do anything?

2 A. Yes.

3 Q. And why is that?

4 A. Well, we have to mitigate any potential threat. You
5 know, it can go all the way up from doing protection detail
6 on the person who is threatened or an interview of the
7 person who sent it or any other sort of security measures
8 here in the courthouse to mitigate any potential threat.

9 Q. And you said something about the person who received the
10 threat. Who got this letter?

11 A. Judge Wilhelmina Wright.

12 Q. And is she one of your protectees?

13 A. Yes.

14 Q. Is she a United States federal judge?

15 A. Yes.

16 Q. For this district, the District of Minnesota?

17 A. Yes.

18 Q. So did you ever interview the person -- and if we look
19 on this envelope, it looks like it was sent by Robert Ivers?

20 A. Yes.

21 Q. Did you ever interview him?

22 A. Yes.

23 Q. Before interviewing him, did you try to learn anything
24 about him or how to approach this interview?

25 A. Yeah, I did a general background, public record

1 searches, and talking to various law-enforcement agencies
2 that may have had contact with him in the past. You know,
3 he had had some law-enforcement contact in open cases in
4 other jurisdictions. I talked to those investigators and
5 prosecutors.

6 Q. Did you ever work with other investigators in another
7 district with respect to this letter that is Exhibit 1?

8 A. Another federal district?

9 Q. No. Another local district or local law enforcement?

10 A. Yes.

11 Q. Can you explain that, please.

12 A. Well, when I looked into his background, I found out
13 that he had an open criminal case for similar conduct in
14 Hennepin County, which had been removed. The venue had been
15 moved to Anoka County. So I had spoken to investigators in
16 both those counties.

17 Q. You said for "similar conduct." What do you mean by
18 that?

19 A. It was a case of harassment or threatening letters.

20 Q. To a judge?

21 A. Or calls. Yeah. Yes.

22 Q. And with respect to Exhibit 1 -- did you do anything
23 with respect to that local case in Exhibit 1?

24 A. I gathered all of the case documents that those agencies
25 could provide me and uploaded those into our system --

1 reviewed them and uploaded them.

2 Q. And did you send this October 31st letter that is
3 Exhibit 1 to the local investigators for Hennepin County or
4 Anoka County?

5 A. I believe I shared these with the Anoka County
6 prosecutor who was doing the prosecution for the other case.

7 Q. You thought this letter was relevant to the Anoka County
8 prosecutor --

9 MR. KELLEY: Objection, Your Honor, leading.

10 THE COURT: Sustained.

11 BY MS. ALLYN:

12 Q. Why would you send this letter?

13 A. Because it's an identical -- almost an identical type of
14 case, and I thought that the investigators and prosecutor in
15 that case should know that the same thing is going on here.

16 Q. Do you recall having seen another letter from Mr. Ivers
17 maybe a little after this first letter that we've been
18 talking about?

19 A. Yes.

20 Q. I'm going to show you what's entered into evidence as
21 Exhibit 2. Do you see that on your screen?

22 A. I do.

23 Q. Do you recognize this, what looks like a letter, as
24 Exhibit 2?

25 A. Yes.

1 Q. How is it that you recognize it?

2 A. That would have been one of the letters received by one
3 of the court chambers. I don't recall if this one went to
4 Judge Wright or one of the magistrate chambers. I do
5 recognize the letter, that it was turned over to me.

6 Q. Let me just sort of page down. There's some handwriting
7 on this. We're at page 2 now; is that right?

8 A. Yes.

9 Q. Page 3. I think I'm going to highlight 5 -- number 5
10 and 6. What does that writing say on that?

11 A. "I smell a rat. Somebody needs to explain to me what
12 the fuck is going on."

13 Q. And who signed this letter?

14 A. Bob Ivers.

15 Q. And, again, who did this letter go to?

16 A. Judge Wilhelmina Wright. Oh, and also Magistrate
17 Thorson.

18 Q. And do you recall who gave you this letter to review?

19 A. If it went to Judge Wilhelmina Wright, it probably came
20 from Terianne Bender. She was the one forwarding me the
21 correspondence to Judge Wright's chambers.

22 Q. So I think you started talking about another step you
23 take is to interview the person who sends these type of
24 letters; is that right?

25 A. Yes.

1 Q. And did you do that in this case?

2 A. Yes.

3 Q. Who did you interview?

4 A. Bob Ivers. Robert Ivers.

5 Q. And when was that?

6 A. I believe it was January 4th of 2017 when he came to a
7 court hearing here.

8 Q. If we were looking at some letters from end of October,
9 early November, why wait until January 4th, 2017 to
10 interview him?

11 A. It was efficient that way. I knew where he would be and
12 at what time, so I didn't have to go out and look for him.
13 And, you know, I think some of his letters he even
14 mentioned, you know -- so I didn't quite know where to find
15 him, but it was easy to know where he would be at that time.
16 And also here, at the courthouse, is the safest place to do
17 it because everybody has to go through metal detection and
18 screening to get in.

19 Q. So was it this courthouse here, in St. Paul?

20 A. Yes.

21 Q. You said something about the screening. Where within
22 this building did you talk with Mr. Ivers?

23 A. On the date and time of his court, I waited on the
24 secure side of the screening for him to pass through the
25 screening, and then I talked to him as soon as he was

1 cleared by screening.

2 Q. And why were you talking to him that day?

3 A. I wanted to assess him and what his intentions were, and
4 to also kind of warn him that he was -- he was scaring and
5 intimidating people and that he needed to back off from
6 that.

7 Q. What other reasons would you have to talk with Mr. Ivers
8 that day?

9 A. There was a request by Judge Wright's chambers that we
10 have increased security, and that Mr. Ivers have marshals
11 present while he was in the building because they were --
12 they had security concerns.

13 Q. So does it have anything to do with threat assessment or
14 what of that nature is involved?

15 A. Yeah. Right, you know, in talking to him, trying to
16 judge what his intentions are and just have a conversation
17 with him.

18 Q. With respect to chambers having reached out to you, was
19 there any role you were supposed to be playing with respect
20 to security and Mr. Ivers on January 4th, 2017?

21 A. Well, the Court didn't assign the roles. I sort of
22 assign the roles, I guess. I had security people in the
23 courtroom. I personally escorted Mr. Ivers while he was in
24 the courthouse.

25 Q. When you first met up with Mr. Ivers, what did you tell

1 him with respect to what you're wanting to do, what you're
2 wanting to talk about?

3 A. You know, I always try to keep it friendly. I said I'm
4 sorry for the hassle, but you wrote these letters that were
5 very concerning, so I need to have additional security here
6 because of the letters, and he said that he understood.

7 Q. Did you record this conversation with Mr. Ivers on
8 January 4th, 2017?

9 A. Yes.

10 Q. And how is it that you recorded it?

11 A. Just carrying a digital recorder in my pocket, my shirt
12 pocket.

13 Q. And was that digital recorder able to capture most of
14 your conversation with Mr. Ivers on that day?

15 A. Yes.

16 Q. Now, you and I have met before to talk about your
17 testimony, right?

18 A. Yes.

19 Q. And I showed you a disk that you reviewed to see that it
20 contained the audio of your conversation with Mr. Ivers that
21 we'll be talking about here today; is that right?

22 A. Yes.

23 MS. ALLYN: Your Honor, may I approach?

24 THE COURT: You may.

25 MS. ALLYN: Thank you.

1 BY MS. ALLYN:

2 Q. Can you look at Exhibit 12 there I've just handed you.

3 Do you recognize that exhibit?

4 A. I do.

5 Q. How so?

6 A. I believe I initialed this yesterday in your office
7 after listening to it.

8 Q. Does Exhibit 12 contain the majority of a conversation
9 involving Mr. Ivers and your investigation with Mr. Ivers?

10 A. As I recall, there were two disks.

11 Q. Right. There will be another exhibit.

12 A. Yeah. So this is, I guess, half of it.

13 Q. That's one of the --

14 A. That's one interview.

15 Q. For the January 4th?

16 A. Yes. Yes.

17 Q. Thank you.

18 MS. ALLYN: Your Honor, at this time the
19 government offers Exhibit 12.

20 MR. KELLEY: No objection.

21 THE COURT: Received.

22 MS. ALLYN: Thank you, Your Honor. At this time I
23 would like to publish for the jury Exhibit 12.

24 THE COURT: You may do so.

25 MS. ALLYN: Thank you.

1 BY MS. ALLYN:

2 Q. Deputy, one of the things we did when you were meeting
3 is there was a transcript that sort of follows along with
4 your recording of your interview with Mr. Ivers; is that
5 true?

6 A. True.

7 Q. And you've listened to this transcript and 99.9 percent
8 seems accurate to what you said and what you heard Mr. Ivers
9 say; is that right?

10 A. Yes. I reviewed it and I noticed a couple of small
11 errors, and I think we fixed those.

12 Q. Okay. I'm going to play this for the jury in a moment.
13 I will find the play button. There we go.

14 (Audio recording played as follows:)

15 "Mr. Ivers, Hi. Jeff Hattervig with the U.S.
16 Marshal. How are you doing? I'm going to get you to your
17 courtroom. Okay? You're here for the 9:00 a.m. hearing
18 with Judge Wright, right?"

19 "Yeah."

20 (Audio recording paused.)

21 MS. ALLYN: I'm just pausing to see if the volume
22 is okay. All right. If everyone will indulge me, I might
23 put the volume up or down depending if things get harder to
24 hear.

25 BY MS. ALLYN:

1 Q. Whose voice are we hearing on this recording?

2 A. That's my voice and Mr. Ivers' voice.

3 Q. I will continue playing it now.

4 (Audio recording resumed.)

5 "Okay. Well, step over to the side over here.

6 Normally there's not a marshal assigned to escort you to a
7 courtroom in most cases, but because of the letters that you
8 wrote and saying you're a very dangerous person --"

9 "Oh, yeah."

10 "Okay."

11 (Audio recording paused.)

12 BY MS. ALLYN:

13 Q. Okay. That statement that you just said, can you
14 explain. It's normally somebody doesn't escort you, what is
15 that about?

16 A. This is a civil case. The marshals don't do security
17 for civil cases generally, lawsuits. We just do security if
18 there's an in-custody prisoner or some other security issue.
19 So this was unusual.

20 Q. So when you're telling this to Mr. Ivers, that's
21 truthful, right?

22 A. Yes.

23 (Audio recording resumed.)

24 "I understand it was just rhetoric."

25 "Yeah."

1 "But -- but because of that, they wanted some
2 extra security, so I'm going to be taking up to the
3 courtroom. Okay?"

4 "Excellent. Thank you."

5 "Okay. Appreciate that."

6 " -- being arrested and taken to jail."

7 "Well, that's not going to happen. The courtroom
8 doesn't actually unlock until ten minutes before, but
9 there's a waiting room up here. Okay?"

10 "Okay."

11 "We're just going to wait outside. Oh, thanks.
12 So you found a place to park your truck?"

13 "Yeah, parking ramp."

14 "What do they charge over there?"

15 "I'm gonna find out."

16 "What floor is this? Oh, I'm sorry, I hit 4. I
17 meant to hit 6. Wrong floor."

18 "Are you undercover?"

19 "No. Marshals don't wear uniforms."

20 "Oh. Oh, yeah. Marshal, sheriffs."

21 "There's a waiting room over here. We've got --
22 it's 8:27, so we've got 20 minutes."

23 "That's fine."

24 (Audio recording paused.)

25 BY MS. ALLYN:

1 Q. All right. So, Deputy, at this point having reviewed
2 the transcript, the audio, is there, I don't know, like
3 seven minutes of just sort of talking about driving downtown
4 and street signs and chit-chat like that?

5 A. Yes.

6 Q. At some point, I would say after about seven minutes,
7 you try to talk to Mr. Ivers about these letters he sent?

8 A. Correct.

9 Q. So just to save everyone some time, I'm going to jump
10 ahead to about eight minutes if I can get this right. Close
11 enough.

12 (Audio recording resumed.)

13 "Well, yeah, I saw you're on the docket for today
14 and you're on the docket for next week."

15 "For the 9th."

16 "For the 9th and -- well, it says 9th and then
17 however long it takes, I guess."

18 "Trial."

19 "So how long do you think it will take?"

20 "I -- you know, and technically it could end today
21 --"

22 "Oh, okay."

23 "-- I mean, in theory."

24 "Well, if you don't mind me asking, because I'm a
25 security guy, what do you mean when you -- like, when you

1 wrote the letter to the judge saying, 'I'm becoming a very
2 dangerous person,' what do you mean by that?"

3 "I've got it with me. I'd have to relook at it."

4 "Okay."

5 "Oh, when I sent that letter --"

6 "Uh-huh."

7 " -- I was broke and living in my car."

8 "Uh-huh."

9 "And they kept moving the hearing dates and legal
10 dates back. And it was just an expression to get them to
11 hurry up --"

12 "I gotcha."

13 "-- and set the trial date."

14 "Because when the marshal --"

15 "I was broke and down on my luck and, you know --"

16 "I can understand that. Yeah, it's -- people get
17 frustrated."

18 "It was just to get them to jump."

19 "Yeah. Because when the marshals read that, they
20 think, okay, this guy's raising a red flag saying he's
21 dangerous, so does that mean he's going to try and kill the
22 judge or something, you know? So we've got to take the
23 stuff seriously, you know?"

24 "Yeah, that's fine."

25 "So -- but you didn't mean anything like that?"

1 "No."

2 (Audio recording paused.)

3 BY MS. ALLYN:

4 Q. Deputy, why are you doing this? Why are you talking to
5 Mr. Ivers specifically about how you are interpreting his
6 letters?

7 A. I'm trying to keep him talking. I want him to explain
8 himself and get a rapport going with him and keep it as
9 friendly as possible. You know, if I just come out and sort
10 of chastise him and say you were wrong for doing this or
11 whatever, he's probably not going to talk to me, so keeping
12 our conversation going.

13 Q. You continue to bring this up during the conversation a
14 few more times?

15 A. Yes.

16 (Audio recording resumed.)

17 "I remember when I was writing that. Let me
18 think. It was just would somebody please fucking do
19 something."

20 "Yeah."

21 "These guys string me out -- my friend died three
22 years ago. These guys strung me out for three years on the
23 insurance deal."

24 "Uh-huh."

25 "And they kept stringing me out, stringing me out,

1 stringing me out. They wouldn't pay me and wouldn't pay me
2 and wouldn't pay me. And they -- this trial was supposed to
3 be way back in August and then September, then October, and
4 then in January. And I'm living in my car. Yeah, it was
5 --"

6 "Things better now?"

7 "It was just -- no. I -- no, I -- it's not
8 better. It's bad."

9 "Hmm."

10 "They owe me some insurance money and we're in
11 court to get it."

12 "Well, it's five below zero. You can't live in
13 your car now."

14 "Well, yeah. No. The engine in my car blew up.
15 I was in an abandoned truck -- or a borrowed truck."

16 "Hmm. Well, you at least got a roof over your
17 head now?"

18 "Yeah, barely."

19 "Okay. Well, I hope it works out for you. I
20 don't know anything about your case, but -- you know --"

21 "Yeah. It's just -- it's an insurance case. You
22 know, insurance company, they want to take the money in and
23 they don't want to pay the money out. I have that letter if
24 you want to see it."

25 "Oh, no, I've --"

1 "Well, just for your own sake."

2 "Yeah, the court gave me a copy when it came in
3 because they were afraid it was a threatening --"

4 "You might've got it out of context, the letter
5 out of context. No. Why would I be insulted or anything
6 that you were with me? And, furthermore, I don't think I
7 have much to say about it."

8 "Yeah."

9 "I don't feel like it's -- I know, you know --"

10 "No, I appreciate the way you're handling it,
11 because some people get kind of abusive with me from time to
12 time."

13 "No, I wouldn't. I -- my cousin was a sheriff out
14 in Minneapolis for 35 years. He was a sheriff. He was --
15 he's 70 years old now, but he was 19 years old and he was
16 playing basketball over in Northeast Minneapolis where he's
17 from, my cousin. He'd be my mom's sister's boy. And they
18 said, hey, the Sheriff's Department is hiring. He went in
19 and filled out an application, but, boom, there was no --
20 nothing. I mean, no --"

21 "Yeah."

22 "I don't even think he needed a high-school
23 diploma."

24 "Is he still a sheriff?"

25 "No. He's 70 years old."

1 "Oh, he's retired."

2 "I'll show you something that'll really amuse you.
3 It's just paper."

4 "You've got kind of a way with words that sort of
5 scares people, though, a little bit."

6 (Audio recording paused.)

7 BY MS. ALLYN:

8 Q. Deputy, why do you keep bringing this up?

9 A. I want to circle back to, I guess, the behavior and let
10 him know that it's not okay, and to get him talking about it
11 to sort of find out what his motives are for sending those
12 communications.

13 Q. Are you trying to warn him or trap him into being able
14 to arrest him or what are some of those motives?

15 A. Well, yeah, at this point we're nowhere near even
16 thinking about arresting him. It's more to warn him and
17 just say knock it off, please.

18 Q. Do you ever want to give people chances to not be
19 arrested?

20 A. Of course. Yeah.

21 Q. You say "of course," but why? Why is that?

22 A. Um, I guess, that, you know -- there's no reason to go
23 through all of this if they will just correct their behavior
24 in the early stages and realize that, you know, they're
25 scaring people and then back away from that and saying --

1 sort of contrition and say I won't do it anymore kind of
2 thing.

3 Q. So if people are contrite or heed your warnings, is
4 there a different result?

5 A. Yes.

6 Q. How so?

7 A. Well, this is -- I've had several cases during that
8 year. This is the only one that ever went to charges.

9 Q. Only one where somebody wasn't contrite and listened to
10 warnings?

11 A. Right. The other cases we talked to them and they
12 realized that they had crossed a line and, you know, usually
13 just said I'm sorry about that, I won't do it anymore.

14 Q. Okay. And I think you've pointed out this is just the
15 first time you're talking to Mr. Ivers; isn't that right?

16 A. Yes.

17 Q. And later in your testimony we'll talk about -- you
18 talked to him again, didn't you?

19 A. Yes.

20 Q. All right. I interrupted this. I will go back to the
21 recording.

22 (Audio recording resumed.)

23 "Here it is right here. I do pretty good with --
24 this is exactly how she would've received it, I think color
25 and everything, that's --"

1 "Uh-huh."

2 "Read it from the very top, number one --"

3 "Right. Uh-huh. No, I've read it. 'Will show
4 the defendants have no case....'"

5 (Audio recording paused.)

6 BY MS. ALLYN:

7 Q. It's great we have a recording, but there's things that
8 you're seeing that's obviously not recorded, so what's
9 happening?

10 A. Mr. Ivers had, I think, a bag full of his legal papers
11 and he handed me some of the papers and asked me to read a
12 portion of it.

13 Q. You did read a portion of those papers, right?

14 A. Yes.

15 Q. Was he actually showing you that letter that we were
16 looking at that's Exhibit 1?

17 A. Well, I know it was one of the letters that had
18 profanity because that's what stood out to me.

19 Q. If we go back where you see it's paused, there's quotes
20 "will show the defendants have no case"; is that right?

21 A. Yes.

22 Q. Is that because you are reading from the letter?

23 A. Yes, that was me reading from the letter.

24 Q. I think I can go back and forth in these exhibits. I'm
25 pulling up Exhibit 1, page 3. I'm going to highlight part

1 2. Can you read that part?

2 A. "The enclosed documents will show the defendants have no
3 case."

4 Q. This is what you are reading, this letter, right?

5 A. Yes.

6 Q. So the defendant wanted to show you one of the exact
7 letters that you wanted to interview him about; is that so?

8 A. Yeah. All the letters that we had received he had his
9 own copies with him.

10 Q. All right. Let me just get us back to the recording.

11 So he knew what you were talking about, right?

12 A. Yes.

13 Q. I'm just going to get us back to where we paused, which
14 was at about 14 minutes. All right. And we're just going
15 to listen to this last little sentence again.

16 (Audio recording resumed.)

17 "Read it from the very top, number one --"

18 "Right. Uh-huh. No, I've read it. 'Will show
19 the defendants have no case.' I think the -- in my opinion,
20 the profanity kind of scares the court a little bit too."

21 "You want to know what? I -- I wasn't going to
22 walk around and internalize this stuff."

23 "Yeah."

24 "Okay?"

25 "I get ya."

1 "I'm not -- I wasn't going to do that to myself,
2 not after what these guys did. These guys dragged me
3 through the coals. And I'm not going to walk around like
4 this. Then I'd be a walking bomb. You can forget that."

5 (Audio recording paused.)

6 BY MS. ALLYN:

7 Q. Tell me what's happening when you hear Mr. Ivers say,
8 "I'd be a walking bomb" to you as an investigator.

9 A. It's just another, you know, red flag that is telling me
10 that he's got these very strong feelings that I may have to
11 worry about.

12 Q. So you are continuing to talk with him?

13 A. Yes.

14 (Audio recording resumed.)

15 "There it is. There's --"

16 "Yeah."

17 "Well, you can -- that's the whole context. No,
18 there's no -- the only reason why I'm sane and not in a
19 mental institution is because I vented."

20 "Yeah."

21 "You know, I'm not going to walk around with that
22 inside me. I refuse to do it. And if I'm going to hurt
23 that badly, I'm going to make sure everybody around me knows
24 about it that has to do with the case."

25 "I hear ya."

1 "They -- these guys stalled me for three years,
2 but now I'm in court. This is it. It's all going to be
3 over with."

4 "Uh-huh."

5 "I'm getting my day in."

6 "What's going to happen if you don't win?"

7 "Then I don't win. I don't think there's anything
8 else."

9 (Audio recording paused.)

10 BY MS. ALLYN:

11 Q. Deputy, why would you ask Mr. Ivers that question?

12 A. Because his anger was about his case. And, you know, my
13 assumption is that if there was a positive outcome for him,
14 that probably there wouldn't be the anger problems as much.
15 But if he lost his case, which could happen, I was concerned
16 about what would happen then.

17 Q. And why is that?

18 A. Because I didn't want him to do anything to any of the
19 Marshal Service protectees.

20 Q. Keep your case open in case he lost, things like that?

21 A. Yes.

22 (Audio recording resumed.)

23 "Yeah. I think it was -- there was a different
24 letter too."

25 "That's the only one that says I'm becoming an

1 angry person."

2 "Where did it say that?"

3 "At the very bottom."

4 "Maybe it was the other -- oh, I missed a page.

5 Oh, yeah, there you go."

6 "See that?"

7 "Yeah."

8 "I am fucking broke. I'm just -- I'm not going to
9 carry that hurt around inside."

10 "I hear ya."

11 "Let's see. I run five minutes fast. Okay. All
12 right. That's all."

13 "It's understand --"

14 "It's all registered. I say other things. Now
15 --"

16 "In case you need it, there's my -- it's got my
17 cell phone number on there. I don't know why you would, but
18 --"

19 "Yeah."

20 (Audio recording paused.)

21 BY MS. ALLYN:

22 Q. What's happening there? What are you referring to?

23 A. I'm handing him a business card with my name, cell phone
24 number, and email address on it.

25 Q. And why would you do that?

1 A. To get him to contact me if there's sort of -- if he's
2 having any troubles that he wants to, I guess, maybe lash
3 out about that he could contact me and I could talk to him
4 about it, rather than going off on court employees.

5 THE COURT: Ladies and gentlemen, you've been
6 sitting over an hour. Do you want to take a minute to
7 stretch and then we'll resume.

8 (Stretch break.)

9 THE COURT: All right. Ms. Allyn, sorry for
10 interrupting you. The last response was in response to your
11 question: Why would you do that, and then I interrupted
12 you.

13 BY MS. ALLYN:

14 Q. So I think you're explaining is this an investigative
15 technique, to give your card, ask Mr. Ivers to call you?
16 Can you explain what you're doing there?

17 A. Um, yeah, I would -- it's sort of an investigative
18 technique. It diverts -- trying to divert any sort of
19 negative communications to the Marshal Service. And, you
20 know, if somebody wanted to, say, vent and use profanity and
21 speak in, you know, terms that might be offensive or
22 threatening, it's better for them to call me because I don't
23 mind listening to that. It's part of my job.

24 Q. Are you trying to kind of be friendly or rapport
25 building, that type of thing as well?

1 A. Yes.

2 Q. And I notice when you're talking to Mr. Ivers and he's
3 admitting that he wrote a letter that I'm becoming a
4 dangerous person -- right, he had admitted that?

5 A. Yes.

6 Q. Are you concerned about that?

7 A. Yes.

8 Q. It doesn't seem as if you are expressing it that
9 strongly to Mr. Ivers at the time. Why are you acting like
10 that?

11 A. Well, I'm trying to keep him talking. You can see there
12 for a minute he sort of opened up and was explaining, you
13 know, I don't want to keep this inside and this is the
14 reason I'm writing. So he's getting there. He's explaining
15 it to me. I just want to keep the conversation going and
16 let him tell me what his troubles are.

17 Q. So would you downplay your real concerns about the
18 communications for an investigative reason?

19 A. Yes.

20 Q. And that's sort of what you're explaining then?

21 A. Yes.

22 Q. To keep him talking?

23 A. Yes.

24 Q. All right. So let's go back to playing.

25 (Audio recording resumed.)

1 "I was going to show you this -- the part that I
2 said was this -- this isn't -- this is just stuff that I
3 have to talk to the judge about. We're having a hearing
4 today. This is my entire case right here."

5 "Uh-huh."

6 "It's actually just one of these. Oh --"

7 (Audio recording paused.)

8 BY MS. ALLYN:

9 Q. Are you guys looking at something right now?

10 A. He had a bag of documents he was going through and
11 showing me, I guess, parts of his case, his civil case.

12 (Audio recording resumed.)

13 "Oh, it's a copy. This is my entire case right
14 there. That's -- right here. That's it. This is just --"

15 "Pretty simple."

16 "I got it with that to refer to. And this is just
17 -- this is a copy of this. Here's -- here's what I'm going
18 to have -- if we have a jury trial, this is what I'll have
19 on my desk in front of me. This is my case. This is what
20 these guys have sent me."

21 "Oh. Have you read it all?"

22 "This -- this is what they did."

23 "I wouldn't be able to read that all, but have
24 you?"

25 "Well, a person can't -- you can't read all that."

1 Oh, yeah, I know the case like the back of my hand. Look at
2 all of this is from them. And here's mine."

3 "Uh-huh. Well, they should be able to --"

4 "I don't know why I would need to call you."

5 "Well, the only reason I offer it is because if
6 some of the -- you know, like you say, where you have -- you
7 don't want to internalize it and you need to get it out and
8 -- it's better if you call me rather than --"

9 "Yeah, this case is over with. Today it's done."

10 "Because when the judges get letters --"

11 "Once they make a decision, there's going to be no
12 more letters. It's over with. This is it."

13 "Okay."

14 "Party over."

15 "All right."

16 "This is what I've waited for for a long time."

17 "All right. Well --"

18 "This is it. It's all done."

19 "That's --"

20 "We're going to have the hearing today and then
21 there will be a trial. And how the trial ends, it's over
22 with."

23 "Okay. Well, you're welcome to call me if you
24 need to get something off your chest. I'm just putting that
25 out there."

1 "There isn't anything more to be said. I said
2 everything."

3 "Because, you know, obviously law enforcement, we
4 all talk to each other. So, you know, you -- they actually
5 arrested you in Hennepin County, right?"

6 "A couple of times."

7 "Yeah. And the up side --"

8 "I went to trial for it."

9 "-- the up side of venting to me is it doesn't
10 bother me if you yell at me because --"

11 "No, I'm not going to. I didn't yell. I yelled
12 at the judge that that case is in court with, but not these
13 judges."

14 "Yeah. Few more minutes."

15 "So yeah, a few little sheets of paper compared to
16 all of their papers."

17 "Hard to compete against --"

18 "No, it's not. It's very easy."

19 "Is it?"

20 "All good. I'm a smart guy. Actually, their
21 investigation is basically what ruined them. Their own
22 evidence is the part that's going to -- is why they are
23 going to lose."

24 "This is the 9:00 for Judge Wright."

25 (Audio recording paused.)

1 BY MS. ALLYN:

2 Q. Okay. Deputy, we've ended the recording here, but you
3 did keep talking to Mr. Ivers for a while after this part of
4 the exhibit; is that true?

5 A. Yes.

6 Q. Was the conversation sort of like talking about drinking
7 diet soda, losing weight?

8 A. Yes. We didn't talk any more about the substance of the
9 communication.

10 Q. Okay. No more about the substance of these letters and
11 how he's treating the Court?

12 A. No.

13 Q. But did you continue to escort him that day?

14 A. Yes.

15 Q. How so?

16 A. Right after this was over, I walked him to the
17 courtroom, got him set up at his counsel table -- he was
18 representing himself, so he had his own table -- and gave
19 him instructions on, you know, where he could and couldn't
20 walk around in the courtroom, and kind of gave him the
21 security guidelines. And then I stayed in the courtroom,
22 along with other security people, for most of the court
23 hearing.

24 Q. So either the part that we didn't listen to of the
25 recording or the time that you were with Mr. Ivers, did he

1 ever apologize for making those inappropriate communications
2 in those letters?

3 MR. KELLEY: Objection, Your Honor, leading.

4 THE COURT: Sustained.

5 BY MS. ALLYN:

6 Q. Did Mr. Ivers ever apologize for making --

7 MR. KELLEY: Objection, Your Honor.

8 THE COURT: Sustained.

9 BY MS. ALLYN:

10 Q. Tell me if there's anything in the recording or not in
11 the recording that Mr. Ivers said with respect to the
12 letters that we haven't captured, that we haven't talked
13 about.

14 A. Well, he didn't back away from anything. He sort of --
15 he didn't hide anything. I mean, he just said yeah, that
16 was me, that's what I said, and that's what I meant sort of.
17 You know, he didn't backpedal at all, I'll give him that.

18 Q. So he admitted to it?

19 A. Yes.

20 Q. Make any excuses for it?

21 A. No -- well, other than he talked about his internal
22 anger and he wanted to vent and let it out.

23 Q. Did he make my responses heeding your warning?

24 A. I think at some point -- this would be later on, at the
25 trial -- I think he told me that once the trial was over, it

1 would be done and we wouldn't hear from him again.

2 Q. I guess we'll talk some more too about the trial, but to
3 that point, we heard on the recording Mr. Ivers say when
4 trial is done you'll never hear from me again, right?

5 A. Yes.

6 Q. This will stop, right?

7 A. Yes.

8 Q. Was that true?

9 A. No.

10 Q. Did you continue to have to investigate Mr. Ivers?

11 A. Yes.

12 Q. But before we get to that, I want to go back a little
13 bit more to this pretrial hearing.

14 So you attended the pretrial hearing in the
15 courtroom, right?

16 A. Yes.

17 Q. And you couldn't record that part; is that true?

18 A. No. I shut off the recorder before we went to the
19 courtroom.

20 Q. And what's your purpose then at that time to be in the
21 pretrial hearing?

22 A. To observe him and just as an extra security body.

23 Q. I think we heard during the recording you explain to
24 Mr. Ivers that you would need to be in the courtroom. Is
25 that true?

1 A. Yes.

2 Q. When you went to the courtroom, did you explain to him
3 who else was there for security purposes?

4 A. I don't know if I broke it down; I mean, it was obvious.
5 The court-security officers have uniforms on and the
6 marshals -- I think it was obvious who the marshals were.
7 There were a couple of marshals in the courtroom.

8 Q. Did you explain to him that they were there because of
9 him?

10 A. Yes.

11 Q. Did you explain to him that was unusual?

12 A. Yes.

13 Q. What did you observe of Mr. Ivers during the pretrial
14 hearing before Judge Wright?

15 A. Can you repeat that.

16 Q. What did you observe of Mr. Ivers', I guess, demeanor
17 during this pretrial hearing before Judge Wright?

18 A. Throughout the entire hearing?

19 Q. Yeah.

20 A. Um, he was -- I don't know, he was being himself. You
21 know, his courtroom decorum wasn't quite what you see from
22 lawyers, I guess. But, you know, I thought he was trying to
23 do a good job for himself and trying to be somewhat
24 respectful toward the Court.

25 Q. Any profanity?

1 A. I don't recall him using any profanity.

2 Q. Any expressions of agitation?

3 A. Yeah. You could tell that certain things that the Judge
4 wouldn't let him do or ruled on made him angry, but he
5 didn't lash out angry. You could just visibly tell that --
6 he may shake his head and kind of throw his arms up or
7 something, but --

8 Q. Do you recall if his agitation was in response to
9 anything specific with the Judge?

10 A. I think the biggest factor that day was Mr. Ivers wanted
11 his civil case to be heard in front of a jury. And I don't
12 know all the legal reasons behind it, but for whatever
13 reason, the Judge said that it would be a court trial in
14 front of the Judge, rather than a jury, and Mr. Ivers was
15 angry, I guess didn't agree with that, and made it clear
16 that he didn't agree with that.

17 Q. At the end of the pretrial hearing, did you observe
18 anything of Mr. Ivers' conduct as he's leaving the courtroom
19 relevant to your testimony today?

20 A. He made a comment about having -- some time during the
21 hearing abiding distrust for judges, and he pointed at the
22 marshals and the court-security officers and said something
23 about, you know, this is one of the reasons why I don't like
24 judges, something to that effect.

25 Q. I'm sorry, I didn't quite hear that first thing you

1 said, abiding what for judges?

2 A. Distrust. I would have to look back at my report, but I
3 think that was the words he used.

4 Q. Something like that?

5 A. Yes.

6 Q. And you said he was also referencing to the security
7 personnel?

8 A. Yeah, he -- you know, he was -- he was polite to all the
9 security personnel, and he didn't seem agitated by it. But
10 he did point at all the security personnel and say this is
11 why I don't like judges, which I took to mean that the
12 judges were bringing in security and he didn't like that.

13 Q. You mentioned something about Mr. Ivers not seeming
14 contrite. Did that matter to you?

15 A. Yes, because, you know, in my experience when we
16 interview people and they are contrite, it sort of makes us
17 feel better about that they're not going to take it further
18 and actually act on their impulses or their words. Some
19 people just get angry and say things they shouldn't say and
20 then when it's brought to their attention, they realize it
21 and they back off on it and say I'm sorry, I didn't mean it
22 that way.

23 Q. So if Mr. Ivers didn't do that, what did you decide you
24 needed to do as an investigator?

25 A. I kept the case open and monitored the progress of it,

1 which was just that there would be another couple of days of
2 court for his trial. We would do security for that. And I
3 made a security bulletin sort of print-out with his photo on
4 it and a brief synopsis of the reason we wanted the court
5 security to be aware of him. I disseminated it to the
6 Marshal Service and to the court-security officers and to
7 the front screening station to be aware of his -- you know,
8 when he comes in that they need to let me know and keep an
9 eye on him.

10 Q. And some of this is -- is this in reference to there's
11 going to be another appearance of Mr. Ivers a few days after
12 this January 4th pretrial? Is that right?

13 A. Yeah. The January 4th hearing was to prepare for his
14 civil trial. And then the trial was scheduled for, I
15 believe it was, maybe a week later.

16 Q. Does January 9th sound about right?

17 A. Yes.

18 Q. So what steps are you doing to prepare for the January
19 9th hearing with respect to Mr. Ivers?

20 A. Just making sure we have personnel working that day that
21 can cover the security for the courtroom. And I made sure
22 that I was there to meet Mr. Ivers at the front door again.
23 And I believe I told him I would do that after the end of
24 the pretrial hearing. I said I would be there for his trial
25 and we'd go through the same routine of me escorting him.

1 Q. And is that what happened?

2 A. Yes.

3 Q. So were you with Mr. Ivers on January 9th and his trial
4 January 10th, 2017?

5 A. Yes.

6 Q. Was that recorded, those conversations with Mr. Ivers?

7 A. Um, I don't believe there were any recordings because we
8 just went straight to the courtroom.

9 Q. Did you still have opportunities to talk with Mr. Ivers
10 on January 9th and January 10th, 2017 about his
11 inappropriate communications?

12 A. Um, we talked a little bit about everything. There were
13 short breaks, you know, lunch breaks and bathroom breaks and
14 things. It was mostly small talk, as I recall.

15 Q. Any more words of warning, admonishment, discussions
16 like that?

17 MR. KELLEY: Objection, Your Honor, leading.

18 THE COURT: Sustained.

19 BY MS. ALLYN:

20 Q. Did you talk to Mr. Ivers any more with respect to his
21 communications?

22 A. In all of my interactions with Mr. Ivers I brought it up
23 and reiterated why I was going through all of this effort.
24 So he was made well-aware.

25 Q. So you sat through both days of trial, right?

1 A. I didn't sit through the entire trial. I took breaks.
2 But maybe 75 percent.

3 Q. And who was the presiding judge of that trial?

4 A. Judge Wilhelmina Wright.

5 Q. Did you get to observe Mr. Ivers then in the courtroom
6 and his performance during the trial?

7 A. Yes.

8 Q. Okay. How would you describe that performance?

9 A. The same as the pretrial. I mean, his demeanor was odd
10 at times, you know, doing things like taking his shoes off
11 or kind of, you know, making gestures and noises. But he
12 also -- you know, he tried his case and, you know, for the
13 most part he stuck to trying his case. He's just not in the
14 lawyer mold, I guess. He was different, I guess. I don't
15 know.

16 Q. But did he appear to you to be able to ask good
17 questions of witnesses?

18 A. Yes. Yeah, he did a good job I thought.

19 Q. I guess that's what I'm getting at. His performance as
20 a person other than a lawyer, how would you describe it or
21 rate it?

22 A. A lot better than I expected. I thought he did a good
23 job.

24 Q. There's nothing threatening about shoes off or
25 gesturing, right?

1 A. No, it's just odd.

2 Q. But you didn't have concerns from a security perspective
3 with respect to his performance in putting on his case,
4 right?

5 A. No. I don't think he was a security threat during --
6 well, I mean, had we not been there, I don't know, but, you
7 know, we were right next to him.

8 Q. Tell me how many marshals were in that courtroom during
9 his trial.

10 A. It varied as people rotated in and out, but probably
11 maybe three deputy marshals and one or two court-security
12 officers.

13 Q. So there is a distinction, right? You're a deputy
14 marshal; is that right?

15 A. Yes.

16 Q. And then is there separate court-security officers?

17 A. Blue coat in the back there.

18 Q. For the record, you have pointed to the back of the
19 courtroom where other court security are that always wear a
20 blue blazer; is that right?

21 A. Yes.

22 Q. So people can refer to them as blue coats?

23 A. Yes.

24 Q. Is that a common way to refer to them? Right?

25 A. They are the, I guess, security, the uniformed security

1 for the building.

2 Q. So you had both marshals and what we call blue coats in
3 that courtroom? Is that what you're saying?

4 A. Yes.

5 Q. And had you said anything about their presence there to
6 Mr. Ivers so that he understood why you were there?

7 A. Um, yeah. I mean, I explained it pretty clearly the
8 first time. And I told him that it would be the same
9 throughout his trial. So it was explained to him why the
10 marshals and the court-security people were in the
11 courtroom.

12 Q. Did Mr. Ivers talk to you about his civil case at all
13 during that trial?

14 A. Yes.

15 Q. Like what kind of things would he say to you about it?

16 A. That's mostly what he wanted to talk about. You know,
17 he would always kind of steer the conversation back to his
18 case. And he wanted to explain to me why he was right and
19 the defendant was wrong. And I listened to him.

20 Q. Any conversations about jury trial, bench trial, things
21 like that?

22 A. Yeah. He had made comments that he was disadvantaged
23 because he didn't get a jury because he says that he has
24 experience in front of juries and he does well and he can
25 usually convince a jury to take his side.

1 Q. How would you characterize his feelings about not having
2 a jury trial?

3 A. He was very unhappy that he didn't get that. It was
4 definitely a sore subject for him.

5 Q. Did you discuss with him, I don't know, your thoughts,
6 his thoughts about the outcome of trial?

7 A. Um, on a few occasions I asked him, you know, if this
8 doesn't go your way and if this doesn't work out and they
9 find -- the Judge rules against you, what's going to happen
10 next? How are you going to handle it? And his general
11 answer was just that it would be over, just that's it.

12 Q. Well, and did you say anything on your part to him about
13 what his behavior would have to be when the trial was over?

14 A. Yeah. I told him you can't send letters or make phone
15 calls that have profanity and threats and the kind of
16 language that's clearly meant to intimidate. I said just
17 don't do that.

18 Q. Did you warn him about walking a line, crossing a line,
19 anything like that?

20 MR. KELLEY: Objection, Your Honor, leading.

21 THE COURT: Overruled.

22 THE WITNESS: Yes, I did.

23 BY MS. ALLYN:

24 Q. How so? Can you explain that.

25 A. Well, he would -- he had asked me -- just about every

1 time I encountered him, he asked if we were going to arrest
2 him. I explained, no, that's not what this is about. But
3 these things could be, you know, criminal if you take it to
4 a certain level and you really need to back off from it.

5 Q. Did you ever either, I don't know, before or after the
6 pretrial, trial, are you having conversations with Judge
7 Wright or chambers about your conversations with Mr. Ivers?

8 A. Judge Wright asked me to meet with her prior to the
9 hearings just so that I could explain to her what security
10 measures I had put in place to sort of make her feel that
11 the courtroom would be safe.

12 And I also stayed in touch with Terianne Bender
13 from Judge Wright's office and gave her updates with
14 anything relevant that may have happened.

15 Q. Deputy, I want to move you forward in time now towards
16 the end of June 2017. Okay?

17 A. Yes.

18 Q. Did you have any further action that you took in
19 Mr. Ivers' case near the end of June 2017?

20 A. The end of June. Um, that probably would have been the
21 time that the ruling was sent out to Mr. Ivers. And I had
22 stayed in contact with Terianne Bender and told her please
23 let me know when the ruling is going to be sent to Mr. Ivers
24 so that I can let the court security know one way or the
25 other, because I expected that if he lost his case, we'd

1 probably hear from him again because he was fixated.

2 Q. And so Terianne Bender did contact you end of June and
3 say, hey, order is coming out?

4 A. She said we mailed a letter to Mr. Ivers letting him
5 know that he had lost his civil suit.

6 Q. And so what did you do in response to learning that?

7 A. I updated our security bulletin, disseminated it to all
8 the Marshal Service people saying, basically, that Mr. Ivers
9 had lost his civil suit and he was likely to be angry about
10 it and that they should beware if he comes around the
11 courthouse again.

12 Q. Did you then sometime that summer receive any reports of
13 inappropriate communications from Mr. Ivers?

14 A. I think that was around the time that I was
15 transitioning to the new warrant supervisor job and there
16 was another investigator transitioning in. So I believe
17 there was another letter received during that time.

18 Q. Is the transition period about August 2017?

19 A. Yes.

20 Q. And who is taking over your spot at that time?

21 A. Farris Wooton, Deputy Marshal.

22 Q. And did Deputy Marshal Wooton -- did you have to do --
23 become involved or learn anything of Mr. Ivers in that
24 August 2017 time period?

25 A. Yes. Because I was versed in the case and I had started

1 with it, so I sort of worked it in conjunction with Farris
2 to continue.

3 There were some letters sent out to -- it started
4 out with Judge Wright, but then the letters that summer went
5 to several different judges, some magistrates and I think
6 maybe the Chief Judge. And they were all duplicates sent
7 out to various judges. And I think there was some more
8 troubling language in those.

9 Q. If I show you, Deputy, what's in evidence as Exhibit 11,
10 do you see that on your screen?

11 A. Yes.

12 Q. Do you recognize that?

13 A. Yes.

14 Q. How so?

15 A. That would have been one of the letters received late
16 summer. I think that one must have been forwarded from the
17 court chambers to the marshals.

18 Q. You remember seeing like a whole stack of letters?

19 A. Yes.

20 Q. Did you put that in as part of your investigation of
21 Mr. Ivers in August 2017?

22 A. Yes, because we were transitioning, it would have been
23 either me or Deputy Wooton would have been documenting this
24 stuff in our computer system.

25 Q. At some point did Deputy Wooton ask you to participate

1 in trying to talk or locate -- talk to or locate Mr. Ivers?

2 A. Yes.

3 Q. And why was Deputy Wooton asking you to help locate
4 Mr. Ivers?

5 A. There were more concerning communications, and --

6 Q. How so? Like what?

7 A. There was something about a ticking bomb, I think, or a
8 walking bomb, and so the court had reached out to the
9 marshals again, and then Deputy Wooton talked to me about it
10 and we decided, well, we need to go talk to Mr. Ivers again.

11 Q. And did you know where Mr. Ivers was at this time that
12 you decided you needed to talk to him again?

13 A. We didn't. His addresses were -- well, he just wasn't
14 that easy to find. The addresses that he had in public
15 records and that he had provided were not accurate. So it
16 took a little digging to figure out where he was.

17 Q. Took some effort?

18 A. Yes.

19 Q. Okay. Sort of referring to time frame, is this about
20 end of August 2017? Does that sound right?

21 A. Yes.

22 Q. So you did find him; is that right?

23 A. Yes.

24 Q. And did you go interview Mr. Ivers?

25 A. Yes.

1 Q. All right. When was that?

2 A. It would be the first week of September of 2017.

3 Q. Does September 1st, 2017 sound right?

4 A. Yes.

5 Q. And where did the interview of Mr. Ivers take place?

6 A. It was at a residence in Minnetonka that we'd located
7 him at.

8 Q. And did anybody go with you to interview Mr. Ivers in
9 September?

10 A. Deputy Farris Wooton was with me.

11 Q. And why were you going to talk to Mr. Ivers on September
12 1st?

13 A. The additional letters that he had sent to court
14 employees, and it was still that same sort of frightening
15 rhetoric with the, you know, pay attention and I'm a ticking
16 bomb or something. I don't recall the exact words right
17 now. It was disturbing to the court employees, and they
18 felt like they were being threatened in some way.

19 Q. But what would be your goals or motives to talk to him
20 on September 1st?

21 A. Same as before. Try to get him to explain what he's
22 thinking and what's going on in his head, and what his
23 motives are, and whether he has any plans to act on his
24 anger, you know, physically. And, you know, hopefully get
25 him to show some contrition and say, okay, I realize that I

1 crossed the line and I won't do it anymore.

2 My hope was that he would just stop doing it and
3 he would go about his life and we wouldn't have to take any
4 further action.

5 Q. So are you trying to assess if you have to take further
6 action or not?

7 A. Yes.

8 Q. When you talked to Mr. Ivers September 1st, did you
9 record that interview?

10 A. Yes.

11 Q. And how did you record it?

12 A. A digital recorder in my pocket.

13 Q. And sort of similar to Exhibit 12, did you meet in my
14 office and review a disk to ensure that the disk had the
15 majority of the September 1st recordings between you and
16 Mr. Ivers on the disk?

17 A. Yes.

18 MS. ALLYN: Your Honor, may I approach?

19 THE COURT: You may.

20 MS. ALLYN: Thank you.

21 BY MS. ALLYN:

22 Q. All right, Deputy. I've handed you Exhibit 13. Do you
23 see this?

24 A. Yes.

25 Q. And you recognize it?

1 A. Yes.

2 Q. How so?

3 A. Those are my initials on it.

4 Q. Is this the September 1st, 2017 audio recording of your
5 interview with Mr. Ivers?

6 A. Yes.

7 MS. ALLYN: Your Honor, the government would offer
8 into evidence Exhibit 13.

9 MR. KELLEY: No objection, Your Honor.

10 THE COURT: Received.

11 MS. ALLYN: Thank you, Judge. If I could publish
12 Exhibit 13 then for the jury?

13 THE COURT: You may.

14 MS. ALLYN: Thank you, Judge.

15 BY MS. ALLYN:

16 Q. Okay, Deputy. Sort of looking at the same thing. We
17 have a transcript that's going to follow along with the
18 audio; is that true?

19 A. Correct.

20 Q. And you listened to this transcript as well -- I'm
21 sorry, you read the transcript while listening to the audio
22 as well?

23 A. Yes.

24 THE COURT: Ms. Allyn, at some point I'm going to
25 give the jury their morning recess, so as to not interrupt

1 your presentation, do you want to do it after this exhibit
2 or now?

3 MS. ALLYN: Your Honor, it might be better before
4 this exhibit, before we get into the recording.

5 THE COURT: Okay. We'll be in recess until 10:30.
6 Remember the preliminary instruction about conduct of the
7 jury. We'll be in recess until 10:30.

8 THE COURTROOM DEPUTY: All rise.

9 (A brief recess was taken.)

10 **IN OPEN COURT**

11 **(JURY NOT PRESENT)**

12 THE COURT: The record should indicate we're
13 proceeding outside the presence of the jury. Mr. Rank
14 wanted some discussion.

15 MR. RANK: Yes, Your Honor, briefly.

16 A couple of things came up during the
17 cross-examination of Ms. Bender that I objected to and
18 didn't want to deal with at sidebar. I would rather do it
19 outside the presence.

20 THE COURT: Okay.

21 MR. RANK: The first issue was Mr. Kelley asked
22 Ms. Bender whether Judge Wright had been subpoenaed.

23 THE COURT: Right.

24 MR. RANK: I objected to that on relevance
25 grounds, but I think that is an issue that the Court should

1 rule on, whether they get to ask that question at all,
2 anything about the subpoena, since it's been quashed by the
3 Court.

4 THE COURT: Right.

5 MR. RANK: We're going to ask for, I think before
6 closing argument, an order that the defense can't comment on
7 the failure of the government to call Judge Wright, because
8 I think that that's an appropriate order in this case.

9 THE COURT: Okay.

10 MR. RANK: But I think any inquiry regarding
11 whether she was subpoenaed, what happened as a result of
12 that subpoena should be not something that is in the realm
13 of appropriate questioning.

14 THE COURT: All right.

15 MR. SCOTT: Your Honor, generally you cannot argue
16 about the failure of the government to call a witness or the
17 failure of a witness to appear because the witness is
18 equally available to both sides, and that's just not true
19 here. The witness here has made a decision that she is not
20 available to the defense. So the witness is declining to be
21 here I think is a subject that a comment to the jury -- the
22 government never loses it's burden of proof. So we don't
23 have to blame it on the government, just say you're not
24 hearing from the witness and it's not our fault.

25 THE COURT: So I take it you're going to argue

1 that's a lack of evidence?

2 MR. SCOTT: We're going to argue it's a lack of
3 evidence, yes, Your Honor.

4 THE COURT: All right. I have no idea what the
5 right ruling is. I'm going to have to look at it. But I
6 thought the question was not relevant given the fact that
7 I'd quashed the subpoena. And I thought the answer was in.
8 That's why I moved to strike. If the answer was not in,
9 that's why I told the jury to ignore the question. Let me
10 look at it because I just don't know. If you have some
11 authority that's helpful to me, either of you, because I
12 think -- I don't know of very many rulings either using the
13 three rationales for quashing the subpoena that I read
14 about, so I just don't know the right answer.

15 You, Mr. Scott, make a very relevant point that
16 it's not true in this case because apparently the witness
17 being represented by the prosecution, i.e. a United States
18 attorney, albeit in another district, is controlling or
19 representing her in resisting the compelling subpoena. So I
20 want to look at it.

21 Mr. Rank, if you have some authority to help me
22 or, Mr. Scott, I would appreciate it.

23 MR. RANK: I would just say, Your Honor, the
24 prosecution is not in a position where we have any -- my
25 understanding is that Judge Wright would have opposed a

1 subpoena from either side.

2 THE COURT: Okay.

3 MR. RANK: So the government chose not to subpoena
4 her, chose not to call her.

5 THE COURT: All right.

6 MR. RANK: But the prosecution wasn't the arm of
7 the government that was representing Judge Wright. And what
8 I don't want to have to get into is explaining to the jury
9 that there was a subpoena, there was a motion to quash and
10 Your Honor granted that motion to quash for all the reasons
11 --

12 THE COURT: Right. Right.

13 MR. SCOTT: I don't think we can do that because
14 it's not of record. It might've ended up of record, but you
15 objected and therefore it's not of record. I don't think we
16 can argue something that's not of record.

17 But the fact she was a witness, she was deciding
18 things, she was talking to people who are testifying about
19 what she was saying and what she was ordering makes her a
20 relevant witness to the case. Because of special rules and
21 if you've read 28 USC 604, the underlying statute is
22 interesting to see where the heck the rules ever came from
23 because there's no support for the regulations at all. But
24 setting that aside, it's given her the power to say even
25 though I am a witness, I have decided I'm not important

1 enough to appear and my decision is final.

2 Now, the jury is not going to hear that, but the
3 jury certainly can hear that an important witness is not
4 here and testifying. And normally, you know, you can't say
5 that because the defense has the power to call the witness.
6 I mean, that's the reason.

7 The burden has never shifted. The government has
8 the burden of their not presenting -- or we're not hearing
9 from that witness. We will be careful in our argument as to
10 how we say it, but, you know -- in a case like this when a
11 witness who's clearly in the center of the case chooses not
12 to appear not through our fault, we're not going to let the
13 jury say how come the defense didn't call them.

14 THE COURT: I appreciate you bringing it up in
15 anticipation of later controversy of it.

16 You want to bring the jury in?

17 MR. RANK: Judge, I wanted to ask one other point.

18 A couple of times on cross-examination there was a
19 question of the witness about something that wasn't charged
20 in the indictment. The judge sustained the objection again
21 on foundation grounds, but Mr. Scott argued this and
22 Mr. Kelley then asked Ms. Bender about what was in the
23 indictment. As a factual matter what they asked was not
24 true. The letters are charged in the indictment. They are
25 in the indictment. They're incorporated by reference into

1 the count language. And so I don't want to have to keep
2 objecting on any grounds, but that's factually not true.
3 Those things are charged in the indictment.

4 MR. SCOTT: Your Honor, maybe I'm completely off
5 into the wilderness here, but the indictment charges events
6 that took place on February 27th, 2018. And it appears to
7 me that right now that the government is arguing to the
8 Court that that's not true, the indictment doesn't say that.
9 But all of this stuff that took place in 2017 as part of the
10 indictment and all of the stuff that took part in 2016 as
11 part of this indictment and it's all charged here, I don't
12 think that that is the least bit true, Your Honor. It may
13 be lots of stuff that they want to talk about, but it's not
14 what's charged in the indictment.

15 What's charged in the indictment is on February
16 27th, 2018 that he made a statement and transmitted it in
17 interstate commerce. He made a statement threatening the
18 Judge, Count One, and he transmitted it in interstate
19 commerce, Count Two. None of these things that we're
20 talking about here took place on February 27th.

21 And I think it's fair to ask the witness. Now,
22 the Court -- for whatever the reason the Court sustained the
23 objection, I suspect because the witness didn't know what
24 was charged, and so it was a foundation objection that was
25 sustained from because the witness did not know, couldn't

1 answer the question. But we're spending most of the time in
2 this trial talking about things that aren't charged in the
3 indictment.

4 THE COURT: But here's my understanding, all this
5 that's coming in for the three-year period, from March of
6 2015 through February of 2018, is that we're relying on the
7 committee's jury instruction about context and background.
8 So I think in the preliminary instructions we -- I'm sorry,
9 the Court told the jury that they've got two charges, so, I
10 mean, that's to me what the jury needs to know. And why
11 they didn't charge these other things doesn't have anything
12 to do with our lawsuit --

13 MR. SCOTT: Yes.

14 THE COURT: -- except background and context for
15 the two counts in the indictment.

16 MR. SCOTT: But the one thing I think the jury
17 needs to keep clear throughout is when they put up a
18 statement that's made here, the judge is corrupt, it's not
19 the charge in the indictment. The charge in the indictment
20 is a conversation that took place on February 27th. And I
21 think it's clearly -- the jury could clearly get confused
22 through this trial as to what was being charged by the way
23 the government is presenting the case, which is they're
24 presenting the case with all of this background materials.
25 They're highlighting the inappropriate language, and it's

1 the inappropriate language that keeps getting pounded in as
2 if it's charged and it is not.

3 THE COURT: Right. And you're going to argue that
4 in closing. And, I mean, I can tell and re-emphasize to the
5 jury that the two counts that we're talking about were told
6 you in the preliminaries. The rest of this is context and
7 background. And it is for you to decide whether it's
8 important, relevant, proves up the case, whatever. Right?

9 MR. SCOTT: Yeah.

10 THE COURT: Yeah. And so, Mr. Rank, I don't know
11 exactly -- you were asking that I restrict the defendant's
12 cross-examination to the extent of saying why wasn't that
13 charged in the indictment?

14 MR. SCOTT: I will never ask that word, why.

15 MR. RANK: Whether it was charged in the
16 indictment two things: The witnesses are not going to know
17 whether it was charged in the indictment for one thing.
18 And, two, it is charged in the indictment. The background
19 and context --

20 THE COURT: The surplusage, right, is in the
21 indictment. But a lay witness, particularly Ms. Bender, or
22 -- that's the context it came up in, as I recall.

23 MR. RANK: Right. She shouldn't be asked about
24 that in the first place. I don't want to have to keep
25 objecting on foundation grounds.

1 THE COURT: Right. Right. And you don't have to.
2 If they want to make an offer, they can. Okay?

3 MR. RANK: Thank you, Your Honor.

4 THE COURT: You want to get the jury.

5 THE COURTROOM DEPUTY: All rise for the jury.

6 **IN OPEN COURT**

7 **(JURY PRESENT)**

8 THE COURT: Please be seated. Ladies and
9 gentlemen, I apologize. We had a short -- remember the jury
10 instruction about bench conferences to discuss how to handle
11 matters? We had a short bench conference. We weren't
12 wasting our time. I hope that it will lead to more
13 efficient presentation by both sides. That's the reason
14 we're late. You are entitled to know that.

15 Ms. Allyn was presenting on behalf of the United
16 States with this witness. So you may proceed, Counsel.

17 MS. ALLYN: Thank you, Your Honor.

18 BY MS. ALLYN:

19 Q. Deputy, just to re-orientate everybody, we're about to
20 play the audio of your September 1st, 2017 interview with
21 Mr. Ivers; is that right?

22 A. Yes.

23 Q. And I didn't realize on the break I can jump this ahead
24 43 seconds and get us back on these minutes. Okay.

25 (Audio recording resumed.)

1 "Ivers. Bob Ivers."

2 "There's a couple guys in there. The only one I
3 know is the owner."

4 BY MS. ALLYN:

5 Q. Can you just set the scene for us. Is this a multiple
6 room, an apartment building? Set the scene.

7 A. It's a single house, but it's kind of rural. It's on a
8 probably couple of acres. There were some people in an
9 outbuilding that seemed to be working on a car or something.
10 I was asking them if they -- because this is the address
11 that I thought that I would be able to locate Mr. Ivers at,
12 so I was asking them if he was there.

13 Q. You weren't even sure that Mr. Ivers was at this
14 address?

15 A. No.

16 Q. Can you explain again a little bit -- you said there was
17 some effort to find Mr. Ivers. I don't understand that.

18 A. Well, you know, all of the public records -- driver's
19 license, address, things like that -- were pointing to
20 different addresses, one being his brother's house in
21 Hopkins. And, you know, we did some checking into that and
22 found out that he wasn't living there.

23 So we had to, I guess, do our sort of -- kind of
24 like we would do if we were trying to locate a fugitive,
25 trying to figure out where they're laying their head at even

1 though the public records aren't showing where they're at.

2 Q. Did you take anything about how it was hard to find
3 Mr. Ivers?

4 A. Did I --

5 Q. Like why?

6 A. Well, generally it's pretty easy to find anybody that's
7 not trying to stay off the radar because, you know, your
8 address is basically public record everywhere. So if
9 somebody is not using where they're actually staying as
10 their address, I guess sometimes there's reasons for that.

11 Q. Trying to avoid you or what?

12 A. I don't know if they would be trying to avoid me, but
13 just not wanting people to know where they're at.

14 Q. All right. Let's go back to playing the recording.

15 (Audio recording resumed.)

16 "Do you guys live here?"

17 "-- I'm buying -- we're buying these trucks from
18 him.

19 "Oh, I gotcha. Okay. We'll just knock on the
20 door then."

21 "Yeah, there's a couple of them in there. I'm not
22 sure whose -- yeah, I don't know."

23 "Are they home right now?"

24 "Richard is I know. Richard --"

25 "I don't know the names."

1 "Okay."

2 (Audio recording paused.)

3 BY MS. ALLYN:

4 Q. There is probably, what, about a minute of you walking.

5 A. Probably is.

6 Q. Here in the recording switching in your pocket; is that
7 it?

8 A. Yes.

9 Q. I'm going to jump ahead to almost three minutes then.

10 (Audio recording resumed.)

11 "Hey there. Bob around? I'm with the U.S.
12 marshals."

13 "No."

14 "Yeah, I just heard his voice, so I know he's
15 here. Can you step outside for a second?"

16 (Unintelligible.)

17 "Are you Richard? Are you Richard?"

18 (Knocking.)

19 "That wasn't Richard.

20 "Huh."

21 "That -- that wasn't Richard." (Unintelligible.)

22 (Audio recording paused.)

23 BY MS. ALLYN:

24 Q. So what had happened here? What's going on?

25 A. It was a nice day and the windows to the house were open

1 and so as we walked up to the front door, I could hear
2 Mr. Ivers talking to somebody inside. He's got a pretty
3 distinctive voice, and I had heard it plenty of times in
4 court. So I know Mr. Ivers was in the house. I could hear
5 him.

6 We knocked on the door. I think the "Richard" I'm
7 referring to is -- public records show that he was the owner
8 of the house, so that's why I was asking if it was Richard.
9 I don't know who the guy was who answered the door, but he
10 basically slammed the door on us and said "No" and shut the
11 door.

12 Q. And said "No" to what?

13 A. I said is -- something about is Mr. Ivers here or I'm
14 here to talk to Bob Ivers and he just said "No" and shut the
15 door.

16 Q. But you had already heard Mr. Ivers by then?

17 A. Yes.

18 Q. Give me a second to get back to my "play" mode. Here we
19 go.

20 (Audio recording resumed.)

21 "Hey, Bob, come outside for a little bit. Talk to
22 us for a second."

23 (Dialing.)

24 (Knocking.)

25 "Here I am. Okay. I know you."

1 "Hey, yeah, I know. Bob --"

2 "How you doing? Hi. How are ya? What's up?"

3 "I'm sorry to bother you at home."

4 "You guys got a warrant for my arrest?"

5 "No. No. We're not arresting you."

6 " -- screwed me out of 100 grand and I need to
7 process it."

8 "I got ya."

9 (Audio recording paused.)

10 BY MS. ALLYN:

11 Q. Now, Deputy, because there was some unintelligibles
12 there, had you told Mr. Ivers what you were even there for
13 yet at the time he starts talking about the Judge?

14 A. I don't think I had been able to get a word out at that
15 point. He started talking.

16 Q. So did he start talking about the Judge before you even
17 told him why you were there?

18 A. Yes.

19 (Audio recording resumed.)

20 "Here's the deal. I got a letter for the Attorney
21 General. I'm sending this out to her now. I'm going to the
22 post office now and to see if she can help me untangle this
23 thing.

24 "And we've talked about this before, how you don't
25 like to internalize, keep it in inside, so you need to vent

1 --"

2 (Audio recording paused.)

3 BY MS. ALLYN:

4 Q. When you say "we've talked about this before," what are
5 you referring to?

6 A. The conversation we had January 4th, 20 -- that would've
7 been 2017 before his pretrial hearing when he explained to
8 me that the language that he uses -- the profanity and the,
9 you know, what I would call veiled threats -- are his way of
10 not internalizing and letting it out. So I'm telling him I
11 know that we've talked about this before.

12 Q. And if you're talking to him now, September 1st, 2017,
13 this is after he has already sent all those August 2017
14 letters; is that right?

15 A. Yes.

16 (Audio recording resumed.)

17 "I can't do any time in jail. I can't do anything
18 there. So I'm done."

19 "No, we're --"

20 "Whoever I yelled at and whatever, it's over
21 with."

22 "Let's talk right now. Okay? That's it. Just do
23 me a favor and let's sit down and talk for just a few
24 minutes."

25 "You don't have a warrant for my arrest?"

1 "No. We're not going to arrest you. I promise
2 you."

3 (Audio recording paused.)

4 BY MS. ALLYN:

5 Q. Okay. You're asking to sit down to talk. Can you set
6 the scene for the jury. Where have you been standing?
7 Where is Mr. Ivers?

8 A. Front door of the house had sort of like the concrete --
9 standard sort of concrete steps. Deputy Wooton was standing
10 at the bottom of the steps. I was standing on the top step
11 or the first step down. And Mr. Ivers was standing on the
12 top landing step.

13 Q. Would he let you inside the house?

14 A. I didn't ask to go inside the house and he didn't offer.

15 Q. You said, "let's sit down and talk for a few minutes."
16 Did Mr. Ivers sit down?

17 A. He didn't want to sit down. He stood the whole time. I
18 sat down.

19 Q. You did?

20 A. Yes.

21 Q. And where did you sit?

22 A. On the top step.

23 (Audio recording resumed.)

24 "I'm not going to say anything to incriminate
25 myself."

1 "No, and I'm not asking you to. Listen, what it
2 is is the same thing I talked to you about before, is the --
3 the Clerk of Court and the people -- the employees, they get
4 a little frightened when they get -- like, you had called in
5 and said: Hey, I'm a ticking time bomb."

6 "I am."

7 "Yeah, I know. But, see, they -- they sometimes
8 take that as threatening. Okay?"

9 "Yeah."

10 "And I know you don't mean it that way because --"

11 "Yeah."

12 (Audio recording paused.)

13 BY MS. ALLYN:

14 Q. Explain what your thinking is. You say, "I know you
15 don't mean it that way."

16 A. I'm trying to get him to, basically, agree with me and
17 back off from this and give him the chance to -- give him an
18 out for him to say, okay, you're right, I don't mean it that
19 way and I don't want anybody to be afraid and I'm sorry.
20 That's generally the way these interviews go, is people back
21 away from what they had said or did.

22 Q. This whole conversation, does he ever back away?

23 A. No.

24 (Audio recording resumed.)

25 "And you and I have had a lot of conversations,

1 and I know that you're just venting. I understand it, but
2 --"

3 "I'm out of my fucking mind, and I want you to
4 tell them down there that I'm fucking hurt. I'm sleeping
5 under a fucking bridge. 100 -- my friend died. He left me
6 a hundred thousand dollars, and this fucking judge snatched
7 it right out from under fucking -- under me. You saw it in
8 court. She denied me a jury trial. She had the deck
9 stacked. And I'm fucking crazy, fucking angry. And tell
10 them downtown -- tell the federal judges this guy's out of
11 his fucking mind crazy. This Judge cheated him. I sent
12 them a letter and they know it."

13 "Okay."

14 (Audio recording paused.)

15 BY MS. ALLYN:

16 Q. Compare his demeanor to the last time you talked to him
17 January 4th, 2017.

18 A. I guess the last time I talked to him would be January
19 9th to 10th, and also January 4th. He was clearly angry
20 from the beginning on this one. He started out angry and
21 just stayed angry. He wasn't that angry, you know, prior to
22 his trial.

23 Q. Are you worried at this point in the conversation?

24 A. Um, not for myself, but I'm worried that he may do
25 something. Yes.

1 Q. "Do something"? What do you mean?

2 A. Well, he's focusing on the Judge mostly, Judge Wright.
3 So I'm worried that he's going to try and take it out on her
4 somehow.

5 (Audio recording resumed.)

6 "I have to process it. I have to process it."

7 "I get it. I get it."

8 "That \$100,000 -- I've got a mentally-handicapped
9 brother who needs to be taken care of. I'm fucking broke.
10 I'm staying here. This is just -- by the way, good job --"

11 "Yeah."

12 " -- finding the place."

13 "I'm good at my job."

14 "Use the cell phone?"

15 "No."

16 "Tracked it on my cell phone?"

17 "No. I'm good at my job. Don't worry."

18 "It's secluded."

19 "Yeah."

20 (Audio recording paused.)

21 BY MS. ALLYN:

22 Q. What's Mr. Ivers talking about here?

23 A. He was surprised that we were able to find him in a
24 secluded location.

25 Q. Okay. Sort of like what we talked about already?

1 A. Yes.

2 (Audio recording resumed.)

3 "And this Judge cheated me, and I'm fucking angry.
4 And I'm not going to -- I haven't slept. And I'm pissed
5 off. I'm just crazy -- a hundred thousand dollars, a tenth
6 of a million fucking dollars. And you want to know what,
7 I've got 80 fucking dollars in my wallet. I don't own a
8 fucking car. My life is in turmoil. That money would have
9 changed -- my whole world would've blossomed. It would've
10 just blossomed. I could've given each one of my kids 10
11 grand apiece, gotten back with them; bought a brand-new
12 \$20,000 car and still had \$65,000 left over. And that
13 fucking Judge, she was biased from day one when I went in
14 that courtroom, biased from -- and I wrote the Chief Judge a
15 letter, which helped me vent --"

16 "Yeah."

17 "-- by telling the Judge. I'm hurt."

18 "Yeah."

19 "And I'm glad the clerk called you, because I'm
20 glad they took it seriously. I am damaged. I'm hurt bad.
21 You don't how bad it hurts. It's a hundred fucking thousand
22 dollars. My friend died and left me a hundred thousand
23 dollars on his insurance policy. And this Judge says fuck
24 you. My dead friend left me that money and this Judge says
25 fuck you, and she took it away from me."

1 "That's aggravating."

2 (Audio recording paused.)

3 BY MS. ALLYN:

4 Q. What is his physical demeanor while he's talking to you
5 during all of this?

6 A. Clearly his body language is just angry. You know, you
7 can tell in his face, his expressions, sort of the way that
8 he is using his hands that he is just very animatedly angry.

9 Q. And if you can try to put words to it. When you say "in
10 his face," what is it you are seeing?

11 A. I don't really know how to describe it. You can tell by
12 looking at somebody if they are angry just by the
13 expression. And he was clearly mad.

14 Q. And we just heard him say something like I'm glad the
15 clerk called, glad they took it seriously. What is that in
16 reference to?

17 A. This most recent communication that the clerks had been
18 afraid about, that they had reported it to the marshals. I
19 took it as he was saying I'm glad that they took it
20 seriously.

21 Q. That bomb comment?

22 A. Yes.

23 (Audio recording resumed.)

24 "Aggravating? I've got 70 bucks in my pocket.

25 I've spent that hundred grand a thousand times, and she just

1 pulled it away. It would have altered my entire life for
2 the rest of my life. I could have done investments, bought
3 things, got a stock portfolio, all of this shit. She was
4 gunning for me the first day. She had nine fucking marshals
5 sitting in there. And, well, by the way, that judge, I
6 never threatened that other judge. I just screamed at him
7 and I was found not guilty. I got vindicated on that case
8 in case you guys checked up on it."

9 "Well, no, you're on court probation for two years
10 in the Hennepin County case."

11 "Not two anymore. February it will be one."

12 "Okay. Well, anyway, sending the letters to the
13 judges and the clerks and stuff, that's fine. I mean,
14 that's -- as far as I'm concerned, I think it's your legal
15 right to do that."

16 "Uh-huh."

17 "It's -- the only part --"

18 (Audio recording paused.)

19 BY MS. ALLYN:

20 Q. Do you mean that? Do you think it's fine?

21 A. Well, I think it's fine for him to send legal
22 correspondence. I don't think it's fine -- and I think I'm
23 about to say that -- I just don't think it's fine for him to
24 put in the profanity, and the threats, and the other stuff
25 that he adds on to his legal correspondence.

1 Q. Okay. So you're trying to explain to him the
2 distinction?

3 A. Yes.

4 (Audio recording resumed.)

5 "That's when you scare people. Okay? When you
6 say I'm a ticking time bomb --"

7 (Audio recording paused.)

8 MS. ALLYN: I'm going to just go back a little
9 because I think I stepped on it.

10 (Audio recording resumed.)

11 " -- all of this shit. She was gunning for me the
12 first day. She had nine fucking marshals sitting in there.
13 And, by the way, that judge, I never threatened that other
14 judge. I just screamed at him and I was found not guilty.
15 I got vindicated on that case in case you guys checked up on
16 it."

17 "Well, no, you're on court probation for two years
18 in that Hennepin County case."

19 "Not two anymore. February it will be one."

20 "Okay. Well, anyway, sending the letters to the
21 judges and the clerks and stuff, that's fine. I mean,
22 that's -- as far as I'm concerned, I think it's your legal
23 right to do that."

24 "Uh-huh."

25 "It's -- the only problem is when you scare

1 people. Okay? When you say, I'm a ticking time bomb,
2 because that makes them think, shit, this guy's going to
3 hurt me."

4 "I didn't say I'm a ticking time bomb. I mean, at
5 you I just said I'm a ticking time bomb."

6 "But you know how people are going to take that."

7 "Hey, I watch a lot of fucking dudes, and I'm a
8 really smart guy. It's still not against the law to tell
9 people how angry you are."

10 "You are a really smart guy --"

11 "It's not against the law to say I'm so fucking
12 mad I could kill someone. They can't arrest you for that."

13 "No, but like you just told me, you want me to go
14 tell the judge that you're --"

15 "That this guy's fucking damaged. He's damaged.
16 I want you to tell the judge this guy is fucking damaged.
17 And, you know, I have to figure out how to process it."

18 "Yeah, I understand. But you don't want me to
19 tell the judge that this guy is dangerous?"

20 "Yeah, I'm not -- you want to know what? I told
21 you I'm not going to say anything to get me thrown into jail
22 here this morning."

23 "I know, but I'm -- what I'm --"

24 "All I'm saying is that I'm fucking hurt -- "

25 "I understand that."

1 " -- real bad, really bad."

2 "And I'm trying to mitigate it. I'm trying to say
3 you're not a dangerous guy, and I'm trying to get you to
4 agree with that, so you're --"

5 (Audio recording paused.)

6 BY MS. ALLYN:

7 Q. Did he ever tell you he's not a dangerous guy?

8 A. No.

9 Q. Did he ever back away from that statement that he's
10 dangerous?

11 A. No.

12 Q. Did he ever back away from the statement he could be a
13 walking bomb?

14 A. No.

15 (Audio recording resumed.)

16 "Is it against the law to be a dangerous guy?"

17 "Well, it depends how far you take that."

18 "Okay. Well, I didn't threaten anybody."

19 "I know, but you're -- and, I mean -- "

20 "Go back to them and say, you want to know what,
21 this guy's fucking -- you saw me here today. I've been very
22 honest with you. I'm so fucking damaged. You have no
23 fucking idea. When I stayed at that fucking Renegade Hotel,
24 you gave me a ride there. I had to pay a girl 50 bucks to
25 drive me downtown when I had 200 bucks to my name in the

1 middle of the winter. I walk in there, that Judge says,
2 Hey, you're not getting a jury trial. When I have a jury, I
3 always win the case. That Judge was hell-bent on failure
4 from the very beginning. Who the hell sides with an
5 insurance company? You always side with the defendant. You
6 always say, well, you know, we know you guys don't ever want
7 to pay off and we're going to give the benefit of the doubt
8 to the plaintiff --"

9 "Uh-huh."

10 " -- Robert Ivers. I'm going to -- he's going to
11 get his money, you know. You guys -- but in this fucking
12 case -- now, if I would've had a six-person jury, you would
13 -- there would be -- you wouldn't never -- you wouldn't hear
14 me. You would never see me again. There would be a
15 beautiful new car in the driveway. I'd have about 75 grand
16 left over for investments. But that fucking Judge -- you
17 know, if she's scared and she's fearful, it's not my
18 problem. She made her bed. She's scared. She's fearful.
19 She made her decision. I didn't threaten anybody. I didn't
20 saying anything. You go downtown, you can tell them this
21 guy is just fucking hot."

22 "And it's fine to be hot, but you can't -- you
23 can't hurt anybody."

24 "I never said I was going to hurt anybody."

25 "Do you want to?"

1 "I never -- I'm not going to hurt anybody."

2 "So you don't have, like, the urge to like, fuck,
3 if I saw this judge at Target, I'd punch her in the fucking
4 face?"

5 "Do you think I'm trying to spend the weekend in
6 jail?"

7 "I know you don't want to, but I'm just asking."

8 "Another \$10,000 bail."

9 "Yep."

10 "You want to know what, I like you guys. Thank
11 you for not having an arrest warrant in your pocket. I'm
12 the damaged party here."

13 (Audio recording paused.)

14 BY MS. ALLYN:

15 Q. Why would Ivers think you would have an arrest warrant?

16 A. My impression is that he knew he was on the line where
17 he could --

18 MR. KELLEY: Objection, Your Honor, calls for
19 speculation.

20 THE COURT: Sustained.

21 (Audio recording resumed.)

22 "That's why we just wanted to talk."

23 "I'm the damaged party here."

24 "We want to know what's on your mind, you know."

25 "No. You want me to say something to get me

1 arrested."

2 "No."

3 "We're not trying to get you to say anything."

4 (Audio recording paused.)

5 BY MS. ALLYN:

6 Q. Were you trying to get him arrested?

7 A. No.

8 Q. No. What are you trying to do really?

9 A. I'm hoping he'll back away from it. And, you know, the
10 overall goal is to mitigate the whole situation and make
11 sure there's no security concern. And, you know, criminal
12 prosecution is not something that we really -- you know,
13 that's not a goal of ours.

14 Q. Really what's the ultimate goal?

15 A. Safety.

16 Q. And determining if somebody is safe or not?

17 A. Yes.

18 Q. Or not going to cause a security problem?

19 A. Yes.

20 (Audio recording resumed.)

21 "Tell them downtown this guy is mother fucking
22 hot, and it's not against the law."

23 "Let me ask you one more thing, because I did a
24 little Google research on you just before I came out here.
25 You were a famous, like, musician in the '80s or something

1 like that?"

2 "I started the punk rock movement nationwide."

3 "Really."

4 (Audio recording paused.)

5 BY MS. ALLYN:

6 Q. Are you doing that investigative technique here a little
7 bit?

8 A. Um, yeah, rapport building and also I'm -- he seems to
9 be so despondent, and I'm trying to point out that he has
10 other avenues of income and things like that, that he could
11 look forward instead of back.

12 Q. Like a refocusing or reshifting conversation? Can you
13 explain what you're trying to do.

14 A. Well, you know, just in my open source research I saw
15 that he did have a music career at one time and so I was,
16 you know -- he seems to, you know, at this point think his
17 life has ended because he didn't win this \$100,000 suit.
18 I'm trying to point out, you know, this isn't the end of
19 your life. You have other things going on.

20 (Audio recording resumed.)

21 "Okay. Huh. Are your records available
22 anywhere?"

23 "Yeah, CDbaby.com under the name Beatlestone."

24 "Do you get any stuff from that, any money type
25 --"

1 "Yeah, it's pretty rough."

2 "Pretty rough?"

3 "There's a billion Facebooks out there. It's hard
4 to compete with anything these days. You know, the
5 Facebook, it -- yeah, I ripped off the Beatles and Rolling
6 Stones. Here, I'll give you one token. Now I guess there's
7 about 25 other bands called Beatlestone."

8 "So punk rock, huh."

9 "And now Facebook is the new Yellow Pages. I do
10 not have a Facebook. I don't have (inaudible) because
11 that's not fair. Okay? But it's -- it's, you know, pretty
12 tough to compete. I --"

13 "Are you still a competent musician? You still
14 --"

15 "Yeah. I still -- but I don't --"

16 "Well, what about giving lessons?"

17 "Nope. Lesson, I don't -- that was a long time
18 ago."

19 "What all did you play?"

20 "I'm kinda burnt out on it."

21 "Guitar? Drums?"

22 "Guitar primarily. Yeah. So I sent the Chief
23 Judge and the other gal that was involved in my case a nice
24 letter."

25 (Audio recording paused.)

1 BY MS. ALLYN:

2 Q. Okay. What is Ivers shifting back to talk about here?

3 A. Back to his case, his legal case in federal court.

4 Q. All right. So he wouldn't continue to talk about his
5 music career then?

6 A. No. He -- I -- clearly he just wanted to talk about
7 something else at this point.

8 Q. Mr. Ivers is the one that shifted the conversation back
9 to the letter, right, not you?

10 A. Yes.

11 (Audio recording resumed.)

12 "It's sitting there. And -- you know, by law you
13 have to send Judge Wright the letter and the attorneys and
14 stuff. And I'm not interested in making anybody feel
15 comfortable tonight. They've stole my life. They've stole
16 the chance that I had to get back with my children. You
17 know what it would be like if I woke up and had a hundred
18 fucking thousand fucking dollars in the bank? My friend
19 died and left me that money. He died and left me that
20 money, two beautiful insurance policies with windows on
21 them, Robert Ivers, you know, the real thing. It looks like
22 money, one for 90 grand and one for 100 grand. He left me
23 that money. And she decided that I wasn't going to be able
24 to tell it to a jury. She was going to decide whether I got
25 my dead friend's money. And I'm not interested in anybody

1 sleeping soundly tonight. I'm angry, and it's not against
2 the law. I watch a lot of TV. You still can't get arrested
3 for being fucking pissed off. Yeah. And I possibly could
4 be a walking bomb. Okay? See you guys."

5 "Hey, you didn't want it before, but my phone
6 number is on there. If you -- just take it."

7 "I'm not --"

8 (Audio recording paused.)

9 BY MS. ALLYN:

10 Q. All right. What's happening? He says, "Okay? See you
11 guys." Any physical movement from that?

12 A. Yeah. He started to move back inside the house, open
13 the door to go back inside.

14 Q. And then what are you doing in response to that?

15 A. I'm trying to give him my business card with my name and
16 cell phone and email address.

17 Q. Why are you doing that?

18 A. Same as before. I mean, each time I met with him, I
19 tried to give him my card so that he would -- you know, if
20 he felt like he was having some anger problems or he needed
21 to let this out rather than directing it at the employees of
22 the court that he could call me, talk to me about it.

23 Q. Are you still trying to keep talking to him to assess
24 his risk or not or --

25 A. Yes.

1 (Audio recording resumed.)

2 "I'm not going to threaten anybody. I'm sending a
3 letter to the Attorney General. Calling up and yelling at
4 you isn't going to do any good for me."

5 "But you know what, you can yell at me because I
6 speak that language and I don't care."

7 "But I'm not going to yell at you. You just tell
8 them that the guy's crazy fucking angry, got cheated by the
9 Judge, period, walk away. That's all you have to do.
10 Okay?"

11 "All right. Well, thanks for talking."

12 "Yeah, I mean --"

13 "I like you. And don't do anything that will get
14 you locked up. Okay? That's only going to make it worse."

15 "You don't want to go sit in jail. All right?
16 It's not even worth it."

17 "I don't want to get locked up. I did that once
18 with a judge. I'm not going to get locked up."

19 "Follow the process."

20 "What about -- I'm not interested in Judge Wright
21 sleeping comfortably."

22 "What about appeals?"

23 "You want to know what, it was federal court. I
24 thought the -- my attorney told me -- I have an attorney
25 that helps me. I thought the appeal was in 60 days. It

1 ended in 30. I lost out on the appeal. I lost out on a new
2 trial."

3 (Audio recording paused.)

4 BY MS. ALLYN:

5 Q. It seems like Mr. Ivers is trying to end the
6 conversation, but you're still trying to talk to him. Is
7 that true? Is that what's happening physically?

8 A. Yes.

9 Q. So why do you want to continue to talk to him?

10 A. The more time I talk to him, the more he'll -- I'm
11 hoping that maybe he'll change his demeanor. And, you know,
12 I have to report back to the court whether or not this guy
13 is a potential safety risk to the court. You know, I'd love
14 to tell them, no, he's fine, he's not going to be a problem.

15 Q. And with what's been happening in this conversation, do
16 you feel you can do that?

17 A. No.

18 Q. You said you want to "change his demeanor." What's his
19 demeanor right now?

20 A. Very angry.

21 Q. And what does that mean to you as a threat investigator?

22 A. Well, it's specifically a problem in this one because
23 all his anger is directed at Judge Wright, which gives him
24 one person he's sort of focused on, which is concerning to
25 me.

1 Q. You keep trying to talk to him to do what, calm down?
2 Assess more?

3 A. Yeah, calm him down. But I also want to know what he's
4 thinking, whether he has any plans, what his recourse is in
5 his own mind, what he thinks he can do about it, and remind
6 him that, you know, there's lines that can't be crossed and
7 he's right up on those lines and he just has to stop with
8 the threatening-type behavior.

9 (Audio recording resumed.)

10 "And did you try anyway? Sometimes they'll look
11 at it and do waivers, things like that."

12 "I'm so razzled and burnt out, I can't -- I've
13 been jump -- I have to jump buses. I have to do all of this
14 shit to get things done. And so it's -- it's -- to go
15 through the whole appeal process on a case I should've never
16 lost. My friend is dead for three years. I lived in my car
17 for the last two summers. I had to find a place to winter.
18 And every day I lived in my car, 270 fucking days. And I
19 told the Judge. The Judge knows. Judge Wright knows my
20 story. The summer before the trial, I said, I'm in my
21 fucking car. Winter's coming on. When's this trial? I'm
22 hurting. I'm hurting. When's the trial? I want my money
23 --"

24 "Yeah."

25 " -- you know? They know. Two summers I spent in

1 my car waiting for this trial, waiting for my dead friend's
2 money that he left me. Yeah. You tell them how hurt I am.
3 You make sure they know. If they're scared and worried, you
4 tell them how hurt I am and how broke I am and how I had
5 visions of that money. That -- I was left that money."

6 "All right. Well, you can throw this away if you
7 want. I'm going to leave it. If you're in crisis, call
8 me."

9 "I'm not in --"

10 (Audio recording paused.)

11 BY MS. ALLYN:

12 Q. Is this your card again? You're trying again?

13 A. Yes.

14 Q. So what you're referring to is you trying to give him
15 your card; is that right?

16 A. Yes.

17 Q. Did he ever call you?

18 A. No. I don't think he took my card ever. I know I tried
19 to -- on this day I tried to just leave it behind and leave
20 it on the doorstep for him. I can't remember if I left it
21 or not. But he wouldn't take it.

22 Q. He never called you to vent, did he?

23 A. No.

24 (Audio recording resumed.)

25 "I know. But I'm going to leave it. And you can

1 throw it away."

2 "No, because --"

3 "You can throw it away."

4 "No, because I like you and I don't want to throw
5 it away out of respect. But if they're living in fear, too
6 fucking bad. It's what they deserve. I've got to go."

7 (Audio recording ended.)

8 BY MS. ALLYN:

9 Q. This is pretty much the conclusion of the interview with
10 Mr. Ivers then?

11 A. Yes.

12 Q. So what's your conclusion at the end of this? Is the
13 case against Mr. Ivers, the investigation, kept open?

14 A. Yes.

15 Q. And why is that?

16 A. Because he didn't give me any reason to believe that he
17 was less of a potential threat to the safety and security of
18 the court employees.

19 Q. But at this time the investigation is turned over to
20 Deputy Wooton; is that right?

21 A. Yes.

22 Q. So did this interview pretty much end your involvement
23 with Mr. Ivers?

24 A. Yes. I got busy with my new job, so I didn't probably
25 follow up with this case very much.

1 Q. But it stayed open, the case?

2 A. Yes. This case has never been closed. It's still open.

3 MS. ALLYN: One moment, Deputy.

4 Deputy Hattervig, I have no further questions for
5 you, but defense counsel might.

6 MR. KELLEY: Your Honor, it's going to take a
7 couple of minutes to plug in.

8 THE COURT: That's fine. Should I put the lights
9 up or do you have exhibits you're going to use here?

10 MR. KELLEY: You can put up the lights, Your
11 Honor. I'll just be using the transcript. Okay. We're
12 ready to go, Your Honor.

13

14 **CROSS-EXAMINATION**

15 **BY MR. KELLEY:**

16 Q. Good morning, Deputy Hattervig.

17 A. Good morning.

18 Q. It's nice to finally put a face to the name.

19 I want to go back to a series of letters, about
20 three letters that the government showed you. The first
21 letter -- this is Exhibit 1, Government's Exhibit 1. Do you
22 recognize this one?

23 A. Yes.

24 Q. Okay. And it is postmarked -- I don't have as fancy of
25 equipment as the government, but it is postmarked October

1 31st, 2016, correct? Do you see that? In the middle more.

2 You got it?

3 A. Yep. It's pretty small, but I see it.

4 Q. October 31st, 2016. That is not February 27, 2018, is
5 it?

6 A. No.

7 Q. Okay. The next one. This is Government's Exhibit 11.
8 This is another letter. This one is written to Chief Judge
9 Tunheim, not Judge Wright, correct?

10 A. Correct.

11 Q. Okay. Postmark on this one -- I'll zoom in really far
12 again -- August 25th, 2017?

13 A. Correct.

14 Q. Okay. That is not February 27, 2018, is it?

15 A. No, it's not.

16 Q. Last one. This is Government's Exhibit -- I'll zoom out
17 a little bit -- Government's Exhibit 3. Do you recognize
18 this?

19 A. Yes.

20 Q. Okay. That says it was received by mail on August 14,
21 2017, correct?

22 A. Correct.

23 Q. Okay. To the courts. The courts received this then?

24 A. Yes.

25 Q. That is not February 27th, 2018, is it?

1 A. No, it's not.

2 Q. Thank you.

3 And just to be clear, none of these documents were
4 sent to the Fredrikson & Byron Law Firm, as far as you could
5 tell, correct?

6 A. No. I hadn't even heard of that law firm prior to you
7 mentioning it.

8 Q. Okay. All right. Now I'm going to turn to the January
9 4th, 2017 pretrial hearing. We're going to play some of the
10 audio, not the entire thing, just a few snippets. I don't
11 want to bore the jury with that.

12 Mr. Ivers showed up 40 minutes early for his
13 hearing, didn't he, about?

14 A. Yeah, that's my recollection. Yes.

15 Q. So you spent 40 minutes with him?

16 A. Yeah. I think so.

17 Q. Okay. And he talked to you for the majority of those 40
18 minutes, right?

19 A. Yeah. Yes.

20 Q. And then you sat through the hearing after that?

21 A. Most of the hearing, yes.

22 Q. Okay. Mr. Ivers' behavior that day was abnormal, but he
23 was appropriate? He acted appropriately, correct?

24 A. Um, yeah. You know, my concern is security, so in the
25 security realm I think he was appropriate. He didn't cause

1 any security issues.

2 Q. You wrote a report about this, didn't you?

3 A. Yes.

4 Q. In that report did you write that he was polite and
5 cooperative?

6 A. Yes.

7 Q. Okay. So that report was for yourself, for the file,
8 for other marshals to look at, correct?

9 A. Yes.

10 Q. So there would be no reason for you to downplay anything
11 that Mr. Ivers did on January 4th in your own report, would
12 there?

13 A. No.

14 Q. Okay. And you wrote in there "Ivers was polite and
15 cooperative"?

16 A. Yes. I would have to -- I don't know if I meant -- or
17 if that was referring to polite and cooperative with me. I
18 think he was pretty polite and cooperative with everybody in
19 the system.

20 Q. Okay. And you wrote in your report that Ivers told you
21 "the letters were not meant to be threatening."

22 MS. ALLYN: Objection. This is improper
23 impeachment.

24 THE COURT: Overruled.

25 THE WITNESS: I'm sorry, could you repeat that.

1 THE COURT: I'm sorry. The question is: "Okay.
2 And you wrote in your report that Ivers told you 'the
3 letters were not meant to be threatening.'"

4 THE WITNESS: Yes.

5 BY MR. KELLEY:

6 Q. Okay. Your conclusion after January 4th was that he did
7 not pose a threat, correct?

8 A. No. That's not correct.

9 Q. Did you write that in your report maybe?

10 A. That he did not pose a threat?

11 Q. Yes.

12 A. I don't think so.

13 Q. Would it refresh your recollection to take a look at
14 your report?

15 A. Sure. Yes.

16 MS. ALLYN: Counsel, could you let me know which
17 date.

18 BY MR. KELLEY:

19 Q. I'm handing you a report here. Do you recognize that
20 document?

21 A. Yes.

22 Q. Okay. It's a report written by you, correct?

23 A. Yes.

24 Q. It's dated January 4th, 2017?

25 A. Yes.

1 Q. That is the date of the pretrial hearing, correct?

2 A. Yes.

3 Q. Okay. So, again, do you remember including in there
4 that he did not pose a threat?

5 A. You know, I don't remember that. Is that somewhere?
6 Could you point to a line?

7 Q. First paragraph.

8 MS. ALLYN: Objection.

9 BY MR. KELLEY:

10 Q. First paragraph, last line.

11 A. Yes. I'm saying that Ivers told me that the letters
12 were not meant to be threatening and that he doesn't pose a
13 threat.

14 Q. Okay. Thank you.

15 A. Those weren't my words. I mean, those were -- okay.

16 Q. Thank you.

17 Okay. Now let's go to the audio. Okay. So the
18 beginning of the recording you said you met him at security.
19 He came through and that's where it started?

20 A. Correct.

21 Q. Right at the beginning do you remember telling him that
22 you understood it was just rhetoric?

23 A. Yes.

24 Q. And that's referring to the letters he sent the court?

25 A. Yes.

1 Q. Okay. You said it was just rhetoric?

2 A. Yes. I said that, yes.

3 Q. Now I'm going to skip ahead to about eight minutes into
4 your interaction with Mr. Ivers. Okay. At this point, you
5 were asking him about his comment that he wrote down on one
6 of the letters to the Court that I'm becoming a dangerous
7 person?

8 A. Okay.

9 (Audio recording played.)

10 "I mean, I'm very --"

11 "Well, if you don't mind me asking, because I'm a
12 security guy, what do you mean when you wrote the letter to
13 the judge saying 'I'm becoming a very dangerous person,'
14 what do you mean by that?"

15 "I've got it with me. I would have to re-look at
16 it."

17 "Okay."

18 "Oh, when I sent that letter, I was broke and
19 living in my car."

20 "Uh-huh."

21 "And --"

22 (Audio recording paused.)

23 BY MR. KELLEY:

24 Q. Okay. So in that letter to the Court, he said, and you
25 testified to this earlier, "I'm in dire fucking straits."

1 Do you remember that?

2 A. Yes.

3 Q. Okay. So could the fact that he is broke and living in
4 his car, could that be what he meant?

5 A. Possibly.

6 Q. Okay. Somebody is in dire straits, that means they're
7 hurting probably financially?

8 A. Yes.

9 Q. Okay. Broke and living in your car would be dire
10 straits?

11 A. Yes.

12 (Audio recording resumed.)

13 "They kept moving the hearing dates and legal
14 dates back. And it was just an expression to get them to
15 hurry up, set the trial. I'm broke and down on my luck
16 and -- "

17 "I can understand that. That's -- people get
18 frustrated."

19 "It was just to get them to jump."

20 "Yeah. Because when marshals read that, they
21 think, okay, this guy is raising a red flag saying he's
22 dangerous, does that mean he is going to try to kill the
23 judge or something, you know. So we have to take that stuff
24 seriously, you know."

25 (Audio recording paused.)

1 BY MR. KELLEY:

2 Q. That's the \$64,000 question. That's your purpose for
3 interacting with him, is to see if he's serious about all
4 the communications he's had with the court, correct?

5 A. Yeah, two-fold: To find out if he's serious and also
6 just to be there for security while he's in the building.

7 Q. Okay.

8 (Audio recording resumed.)

9 "But you didn't mean anything like that?"

10 "No."

11 "Okay."

12 BY MR. KELLEY:

13 Q. You just asked him if he was serious about his
14 statements to the court and he just told you "No"?

15 A. Correct. Yes.

16 Q. He did not know you were recording?

17 A. No, he didn't.

18 Q. Did he have any reason to believe that?

19 A. No.

20 (Audio recording resumed.)

21 "I remember what I was writing down. Let me
22 think. Yeah, it was just would somebody please fucking do
23 something."

24 "Yeah."

25 "These guys string me out. My friend died three

1 years ago. These guys strung me out three years on the
2 insurance deal."

3 (Audio recording paused.)

4 BY MR. KELLEY:

5 Q. So you testified you didn't know a whole lot about the
6 case, the civil insurance case, correct, at this point?

7 A. Well, I familiarized myself with the general outline of
8 the case, but none of the details.

9 Q. So when Mr. Ivers is saying he's been strung out for
10 three years, wasn't it true that the case had been going on
11 for three years?

12 A. I only knew that from him telling me, but it doesn't
13 surprise me.

14 Q. Okay. I think we're going to skip ahead. Okay. So I'm
15 now skipping ahead to a point where you are reading through
16 some of the court documents that Mr. Ivers had and handed to
17 you. Do you remember that point in the conversation?

18 A. Yes, sir.

19 (Audio recording resumed.)

20 "Read it from the very top."

21 "No, I've read it. Make sure the defendants have
22 no case. I think the -- my opinion, the profanity kind of
23 scares the court a little bit."

24 (Audio recording paused.)

25 BY MR. KELLEY:

1 Q. You just said in your opinion, "the profanity kind of
2 scares the court a little bit"?

3 A. Yes.

4 Q. So we're here in federal court now. It's a pretty prim
5 and proper place compared to state court, isn't it?

6 A. I can't really make that judgment. I haven't spent a
7 lot of -- I've always worked in federal court. I haven't
8 spent much time in state court.

9 Q. Would you agree that they do not tolerate profanity in
10 federal court?

11 A. Um, discouraged I would say, yes.

12 Q. You don't see it very often in federal court, do you?

13 A. No.

14 Q. You certainly don't see it in civil cases, right?

15 A. No.

16 Q. So in a civil case they're not used to profanity?

17 A. Again, I don't have any experience in civil cases. This
18 is one of the first I've dealt with. It's always been
19 criminal. But I do agree that I don't think that would be
20 appropriate in any of those court settings.

21 Q. Profanity is inappropriate but not illegal?

22 A. Right.

23 (Audio recording resumed.)

24 "I -- I wasn't going to walk around and
25 internalize this stuff. Okay?"

1 (Audio recording paused.)

2 BY MR. KELLEY:

3 Q. Sorry, I could have got that in there. "I wasn't going
4 to walk around and internalize this stuff." Mr. Ivers is
5 talking about his emotions, right?

6 A. Yes.

7 Q. All right. He's talking about his friend having died
8 three years prior, correct?

9 A. Yes.

10 Q. He's talking about a court case that had been going on,
11 to the best of your knowledge, for three years?

12 A. Yes.

13 Q. All right. And he felt like he was entitled to the
14 \$100,000 insurance?

15 A. Right.

16 Q. So he was hurting inside?

17 A. Yes.

18 Q. So when he's talking about not being able to walk around
19 and internalize this stuff or he wasn't going to do that, he
20 is talking about processing his emotions?

21 A. Yes.

22 (Audio recording resumed.)

23 "I get why."

24 "I wasn't going to do that to myself, not after
25 what these guys did. These guys dragged me through the

1 coals. I'm not going to walk around like that. Then I
2 would be a walking bomb."

3 (Audio recording paused.)

4 BY MR. KELLEY:

5 Q. "Walking bomb," we've heard that a couple of times here?

6 A. Yes, sir.

7 Q. This is not the only time he says that, right? Yes or
8 no? You have heard him saying it more than once?

9 A. I think he said it, and I think it was in writing at one
10 point also.

11 Q. Okay. He says this? This is an expression he uses?

12 A. It's an expression, yes.

13 Q. Okay.

14 (Audio recording resumed.)

15 "There it is. That's the whole context. You
16 know, there's no -- the only reason why I'm sane and not in
17 a mental institution is because I vented."

18 "Yeah."

19 (Audio recording paused.)

20 BY MR. KELLEY:

21 Q. So right now you had been discussing these three letters
22 that he just reviewed that he sent to the court, correct?

23 A. Discussing one of the letters for sure.

24 Q. Okay. So one of the letters that he had sent to the
25 Court for sure. That's what you had been discussing up to

1 this point?

2 A. Yes. Correct.

3 Q. And he was describing how he's processing his emotions,
4 too, correct?

5 A. Yes.

6 Q. Writing these letters was cathartic for him, correct?

7 MS. ALLYN: Objection, foundation, calls for
8 speculation.

9 THE COURT: Sustained. Sustained.

10 BY MR. KELLEY:

11 Q. He just told you he was venting, didn't he?

12 A. Yes.

13 Q. And he had just told you that he vents to maintain his
14 sanity, right?

15 A. Yes.

16 Q. Because he was hurting?

17 A. Yes.

18 Q. Skip ahead one more time a little later in the
19 conversation.

20 MS. ALLYN: Is it possible to tell me the
21 timestamp?

22 MR. KELLEY: Going to 17:50.

23 MS. ALLYN: Thank you.

24 MR. KELLEY: It is page 9.

25 (Audio recording resumed.)

1 "Look it, all of this is from them."

2 (Audio recording paused.)

3 BY MR. KELLEY:

4 Q. Okay. At this point, you guys are discussing your
5 business card that you were trying to hand to Mr. Ivers.

6 (Audio recording resumed.)

7 "Here's mine."

8 "Uh-huh. You should be able to --"

9 "I don't know why I would need to call you."

10 "Well, the only reason I offer it is because if
11 some of the -- you know, you say where you have -- you don't
12 want to internalize it, you need to get it out, it's better
13 if you call me, rather than --"

14 "This case is over with."

15 (Audio recording paused.)

16 BY MR. KELLEY:

17 Q. So you were handing him your business card in case he
18 needed to vent, correct?

19 A. Yeah.

20 Q. You would rather have him -- sorry. You would rather
21 have him call you to vent than vent to the court?

22 A. And also so that I could stay in contact and sort of
23 assess his situation and whether, you know, he's becoming a
24 safety risk.

25 Q. Sure. But you understood his venting process --

1 A. Yes.

2 Q. -- right? Okay.

3 Just to be clear, this is January 4th, 2017. This
4 is not February 27, 2018?

5 A. Correct.

6 Q. And you did not arrest him for anything he said or did
7 on January 4th, 2017, did you?

8 A. No, I didn't.

9 Q. Okay. So there was a lot of down time after these
10 discussions before the hearing actually started, right?

11 A. Um, there were a few minutes of I think we were just
12 sitting there, yeah.

13 Q. So the total interaction before court started was about
14 40 minutes, correct?

15 A. Yes.

16 Q. I think we were just at 18 minutes into the audio
17 recording. Did you have about 20, 25 minutes left?

18 A. That makes sense, yeah.

19 Q. So you sat there and talked with Mr. Ivers for about 20
20 minutes?

21 A. We talked -- pretty much the whole time we talked. It
22 wasn't always about official stuff. We talked about diet
23 Mountain Dew for awhile.

24 Q. Right. You talked about losing weight, right?

25 A. Yes.

1 Q. You had lost some weight?

2 A. Yes.

3 Q. How did you lose your weight?

4 A. Diet Mountain Dew.

5 Q. Switching from regular Mountain Dew to diet Mountain
6 Dew?

7 A. Correct.

8 Q. Did you suggest a similar thing to Mr. Ivers?

9 A. Only because he said he wanted to lose weight.

10 Q. Do you remember how much he said he wanted to weigh?

11 A. I don't recall.

12 Q. Does it look like he has lost a considerable amount of
13 weight?

14 MS. ALLYN: Objection, relevancy.

15 THE COURT: Sustained.

16 BY MR. KELLEY:

17 Q. Okay. So after you have this discussion about Mountain
18 Dew and losing weight, you had the hearing?

19 A. Yes.

20 Q. Okay. This is the pretrial hearing on January 4th. And
21 you sat in the courtroom for that entire hearing?

22 A. Not the entire hearing, but --

23 Q. Most of it?

24 A. -- most of it, yes.

25 Q. Okay. Mr. Ivers maintained his composure during that

1 hearing?

2 A. Yeah, he did pretty well. Again, he was odd, so it was
3 -- it was a little off-putting, some of the behavior. But I
4 don't think he was -- he didn't cause problems.

5 Q. Okay. He didn't cause problems and didn't use
6 profanity, right?

7 A. I think if he had used profanity, I probably would have
8 put it in my report, so I don't think so.

9 Q. Okay. So, to the best recollection, he didn't use
10 profanity?

11 A. Correct.

12 Q. Okay. Now let's turn to the trial, January 9th and
13 10th.

14 A. Yes.

15 Q. It was a two-day bench trial in front of Judge Wright?

16 A. Correct.

17 Q. You said you were in the courtroom, you said, for 75
18 percent of that?

19 A. Estimate.

20 Q. The other 25 percent pop out, check emails, stuff like
21 that?

22 A. Correct.

23 Q. You were there the overwhelming majority?

24 A. I just made sure there was always somebody from the
25 Marshal Service in there.

1 Q. So Mr. Ivers was somewhat erratic and mildly
2 inappropriate, but he was fairly well-behaved during the
3 trial, right?

4 A. Um, yeah. You know, it was just decorum things. It
5 wasn't -- again, I'm a security person so that's the lens
6 I'm looking through. It was not a security problem for me.

7 Q. Courtroom decorum. Like if I started swearing, I might
8 get yelled at in here?

9 A. Or took your shoes or whatever, it would be odd.

10 Q. Okay. And he maintained a friendly rapport with you
11 throughout the entire trial?

12 A. Yes.

13 Q. All right. You guys actually got along really well,
14 didn't you?

15 A. Um, yeah. I would say so.

16 Q. And he constantly talked to you about his civil case?

17 A. Yes.

18 Q. He's talking to you about the merits about whether or
19 not he thought he was going to win?

20 A. Yes.

21 Q. And he liked talking to you so much he even asked if you
22 wanted to hang out outside of court, right?

23 A. At some point, yeah.

24 Q. Socially?

25 A. I assume so, yeah.

1 Q. You politely declined?

2 A. Yes.

3 Q. And didn't he tell you during the trial that he wrote
4 the letters to the court with the vulgar language in them
5 because he was just venting?

6 MS. ALLYN: Objection, calls for hearsay.

7 THE COURT: Overruled.

8 THE WITNESS: I'm sorry, could you repeat it.

9 BY MR. KELLEY:

10 Q. Didn't Mr. Ivers tell you that he wrote the letters to
11 the Court back in August 20 -- sorry, I guess it would be
12 October 2016, he wrote those letters to the court because he
13 was just venting?

14 A. Yeah, I think that was the conversation we had in the
15 waiting room before his first case. He told me that he was
16 just venting and didn't want to internalize it.

17 Q. Okay. And he just wanted the court to act a little
18 faster because he had been waiting for three years for his
19 trial, right?

20 A. Yes, I do recall that.

21 Q. As you were escorting him around the building during the
22 jury trial, he told you that he was upset that Judge Wright
23 denied him a jury trial, right?

24 A. Um, yes, at some point he mentioned it to me. He argued
25 it openly in court, as well.

1 Q. And he thought he should be entitled to a jury trial,
2 right?

3 A. Yes.

4 Q. At the end of the trial, you kind of walk out of this
5 building, you walk out with Mr. Ivers, say goodbye to him,
6 right?

7 A. Yes.

8 Q. Part ways. And when you did, he said he probably
9 wouldn't be back to the St. Paul Courthouse after that?

10 A. Correct.

11 Q. All right. In fact, he did not come back to the
12 St. Paul Courthouse until more recently?

13 A. Yeah, I don't know of him ever coming back.

14 Q. So between your conversation with him, the trial in
15 January 2017, right, and let's say February 27th, 2018, he
16 never came back down to this courthouse, did he?

17 A. To my knowledge, he never did.

18 Q. Okay. And this is where Judge Wright works, correct?

19 A. Yes.

20 Q. And he never came back here in that entire time span?

21 A. Not to my knowledge.

22 Q. And you knew that Mr. Ivers lived in the west metro?

23 A. Yes.

24 Q. Okay. He grew up in that area?

25 A. Um, I don't know if I knew that, but I knew that's where

1 his ties were.

2 Q. He lived in Hopkins at some point?

3 A. Yes.

4 Q. Lived in Minnetonka?

5 A. Yes.

6 Q. He had family out in that area?

7 A. Yes.

8 Q. And you also knew that he didn't have a working vehicle,
9 right?

10 A. He had mentioned it. I think he had mentioned various
11 vehicles that were either broken down or that he had to take
12 the bus to get from place to place. So I knew that he had
13 transportation problems.

14 Q. Because for a while he was living out of his truck,
15 right?

16 A. According to, I think, one of his letters he said that.
17 I didn't verify that.

18 Q. Okay. So he had serious vehicle problems, possibly no
19 vehicle?

20 A. I never verified that, but I don't have any reason to
21 not believe it.

22 Q. But he did tell you that it was very hard for him to
23 find transportation down to St. Paul, right?

24 A. He did say that.

25 Q. He had to jump buses or ask for rides?

1 A. Yes.

2 Q. It was difficult for him to get to this courthouse?

3 A. Yes.

4 Q. On top of that, he didn't return to the courthouse
5 between January 2017 and February 2018?

6 A. Not to my knowledge.

7 Q. Okay. So at the end of the trial, your impression of
8 Mr. Ivers was that he was polite and cooperative throughout
9 the trial, right?

10 A. Polite and cooperative with me for sure, yes.

11 Q. All right. Now we're going to start talking about the
12 September 1st interview. The thing that spurred this
13 interview was the letters in August 2017, right?

14 A. Okay. Yes.

15 Q. You would agree with that?

16 A. Yes.

17 Q. So these letters from August 22nd through maybe August
18 25th, 2017 -- I showed you those earlier?

19 A. Yes.

20 Q. Exhibit 1?

21 A. Yes.

22 Q. Postmarked August 22nd? That one?

23 A. Yes.

24 Q. August 22nd, 2017?

25 A. Yeah. I can't see it, but you did show it to me before.

1 MR. KELLEY: Thank you, Your Honor.

2 BY MR. KELLEY:

3 Q. This one is Exhibit 3, August 14, 2017?

4 A. Yes.

5 Q. This one is Exhibit 11 and that is August 25th, 2017.

6 Okay. Terrible focus.

7 A. You showed them to me before. Yeah. So yes.

8 Q. Right. So you remember these? These are August 2017?

9 A. Yes.

10 Q. Mr. Ivers did not send any correspondence to Judge
11 Wright after that time, did he?

12 A. No. It was to other judges after that.

13 Q. Okay. Nothing to Judge Wright or her chambers after
14 August 25th, 2017?

15 A. Not to my knowledge.

16 Q. No phone calls to her chambers or to Judge Wright after
17 that time?

18 A. Not to my knowledge.

19 Q. So he didn't come to the courthouse between the jury
20 trial and February 27, 2018, right? Correct?

21 A. He didn't come to the courthouse?

22 Q. This courthouse.

23 A. Not to my knowledge.

24 Q. And he didn't send any mail, letters, correspondence,
25 anything like that to Judge Wright or her chambers during

1 that same time period, right?

2 A. Not to my knowledge.

3 Q. He did not make any phone calls to Judge Wright or her
4 chambers during that entire period?

5 A. Not to my knowledge.

6 Q. So no contact between Mr. Ivers, Judge Wright, or her
7 chambers between January 2017 and February 27, 2018?

8 Nothing?

9 A. Not to my knowledge.

10 Q. Okay. So we're at September 1st, 2017. It took you a
11 minute to find him, right, where he was living?

12 A. You mean it took me a minute or --

13 Q. Yeah. Did you have any trouble finding him?

14 A. Well, yeah. I had to knock on some doors and ask some
15 people, try to figure out where he was laying his head at.

16 Q. Part of the reason that it's, you know, a little
17 difficult to find him sometimes is because he had housing
18 issues. He doesn't have a secure housing situation, right?

19 A. It could be. Yes.

20 Q. He does some couch surfing?

21 A. It's possible. I never verified that.

22 Q. But the contacts you've had with him, he's been living
23 with friends, right?

24 A. I only had one contact outside of the courthouse, and
25 that was in -- I don't know what his relationship was with

1 the person, the homeowner there. I just found out that he
2 was staying there.

3 Q. But it wasn't Mr. Ivers' home, was it?

4 A. No.

5 Q. Okay. So he's in Minnetonka?

6 A. Yes.

7 Q. And at some point you testified -- sorry. At some point
8 Mr. Ivers told you he was in a secluded area?

9 A. Yes.

10 Q. But it is in Minnetonka, right?

11 A. Yeah. It's sort of an acreage in Minnetonka.

12 Q. It's not way out in the sticks in the mountains, right?

13 A. Correct.

14 (A brief discussion was held off the record.)

15 BY MR. KELLEY:

16 Q. Okay. So the recording begins with you and Deputy
17 Wooton kind of walking around knocking on doors, trying to
18 figure out which residence is actually where Bob is, right?

19 A. Well, we knew the residence because it was just by
20 itself, but we didn't know if he was home.

21 Q. Okay. So when you get to the door, he pops out, right,
22 pretty quick?

23 A. Bob? No. There was a little trouble getting him to
24 come out initially. He did come out willingly after some
25 cajoling.

1 Q. That's where we're going to start.

2 A. Okay.

3 (Audio recording played.)

4 "Here I am. Okay. I know you. How are you
5 doing? Hi. How are ya? What's up?"

6 "I'm sorry to bother you at home."

7 "You guys got a warrant for my arrest?"

8 "No."

9 "I don't want to discuss the deal."

10 "I know --"

11 "The judge screwed me out of 100 grand and I need
12 to process it."

13 (Audio recording paused.)

14 BY MR. KELLEY:

15 Q. Okay. There he goes talking about processing.

16 A. Yes.

17 Q. Did you understand that to mean venting, like he had
18 described in January to you?

19 A. I wasn't sure because he just started talking. I hadn't
20 asked him any questions. So I assumed that he was talking
21 about the same sort of thing.

22 Q. It's entirely possible he was venting about losing the
23 court case?

24 A. I think that's what he was talking about there, yeah.
25 He was venting about that.

1 (Audio recording resumed.)

2 "I got ya."

3 "And she screwed me out of 100 fucking thousand
4 dollars. Here's the deal. I got a letter for the Attorney
5 General. I'm sending this out to her now. I'm going to the
6 post office now to see if she can help me untangle this
7 thing."

8 (Audio recording paused.)

9 BY MR. KELLEY:

10 Q. Did you know what he was talking about right there?

11 A. With the Attorney General's Office I didn't know what he
12 was talking about. It was some sort of legal process that
13 he was --

14 Q. He is talking about sending some sort of legal letter to
15 the Attorney General?

16 A. Yeah.

17 Q. Lori Swanson at that time, I believe?

18 A. Uh-huh. Yes.

19 (Audio recording resumed.)

20 "We talked before about how you don't like to
21 internalize, keep it inside. You need to vent."

22 (Audio recording paused.)

23 BY MR. KELLEY:

24 Q. You're acknowledging again him bottling things up and
25 needing to vent?

1 A. Yes.

2 (Audio recording resumed.)

3 "Go ahead."

4 "I can't do any time in jail. I can't do anything
5 there. So I'm not -- whenever I yelled at, whatever, it's
6 over with."

7 "Just do me a favor and let's sit down and talk
8 for just a few minutes. You know -- "

9 (Audio recording paused.)

10 BY MR. KELLEY:

11 Q. He asked if you guys had an arrest warrant?

12 A. Yes.

13 Q. You did not?

14 A. No.

15 Q. You were just there to talk to him?

16 A. Yes.

17 Q. He didn't have to talk to you?

18 A. No, he didn't.

19 Q. But he voluntarily talked to you?

20 A. Yes.

21 Q. For awhile?

22 A. For awhile.

23 Q. Part of that is because he liked you?

24 A. He said he did.

25 (Audio recording resumed.)

1 " -- warrant for my arrest?"

2 "I promise you -- all right."

3 "I'm not going to say anything to incriminate
4 myself."

5 "No. I'm not asking you to. Listen, what it is,
6 the same thing I talked to you about before, is the -- the
7 -- the Clerk of Court and the people, the employees, they
8 get a little frightened when they get -- like you had called
9 in and said, Hey, I'm a ticking time bomb."

10 (Audio recording paused.)

11 BY MR. KELLEY:

12 Q. Here's the "bomb" again. He had said "walking bomb"
13 before?

14 A. Yes.

15 Q. So in January 2017, he said some comment about being a
16 "walking bomb" --

17 A. Yes.

18 Q. -- to you? He said that comment to you in January 2017,
19 like at the pretrial hearing?

20 A. Yeah. I think -- yes. Yes, he did. He did say that.
21 Yep.

22 Q. Okay. And that was in a context of discussing him being
23 able to process the civil court case, the insurance trial
24 dragging on for three years --

25 A. Yes.

1 Q. -- right? So he was trying to process his emotions.
2 And when he said "walking bomb" in January of 2017, he was
3 talking about himself, his sanity, and needing to vent,
4 right?

5 MS. ALLYN: Objection, calls for speculation.

6 THE COURT: Sustained.

7 BY MR. KELLEY:

8 Q. You did not arrest him in January 2017 after he said
9 "walking bomb" to you, did you?

10 A. No, I didn't.

11 (Audio recording resumed.)

12 "I am."

13 "Yeah, I know, but, see, they sometimes take that
14 as threatening. Okay? And I know you don't mean it that
15 way."

16 (Audio recording paused.)

17 BY MR. KELLEY:

18 Q. So when you said, "I know you don't mean it that way,"
19 you're alluding to his venting process, right?

20 A. Yes.

21 Q. You knew he was coping by venting?

22 A. Yes.

23 (Audio recording resumed.)

24 "Yeah."

25 "Because you and I have had a lot of conversations

1 and I know that you're just venting. I understand it,
2 but --"

3 "I'm out of my fucking mind and I want you to tell
4 them down there that I'm fucking hurt. I'm sleeping under a
5 fucking bridge. 100 -- my friend died. He left me \$100,000
6 and this fucking judge snatched it right out from under
7 fucking -- under me. You saw her in court. She denied me a
8 jury trial. She had the deck stacked."

9 (Audio recording paused.)

10 BY MR. KELLEY:

11 Q. So when Mr. Ivers said, "She had the deck stacked"
12 against him, he's referring to Judge Wright's rulings during
13 the court case, right?

14 MS. ALLYN: Objection, calls for speculation.

15 THE COURT: Sustained.

16 BY MR. KELLEY:

17 Q. Judge Wright did, in fact, deny him the jury trial?

18 A. Yes.

19 Q. And you knew that later she also denied him a hearing on
20 a motion for a new trial, right?

21 A. I don't know about that. I think I was out of the case
22 by then.

23 (Audio recording resumed.)

24 "I'm fucking crazy fucking angry. Tell them down
25 downtown, tell the federal judges this guy is out of his

1 fucking mind crazy. This judge cheated him. I sent them a
2 letter and they know it. I have to process it. I have to
3 process it."

4 (Audio recording paused.)

5 BY MR. KELLEY:

6 Q. Again, talking about processing his emotions?

7 A. Correct.

8 MR. KELLEY: Ms. Allyn, I'm going to 11:26, page
9 13.

10 MS. ALLYN: Thank you.

11 BY MR. KELLEY:

12 Q. I'm going to skip ahead. This is towards the end of the
13 September 1st interview, if you could call it that. And
14 Mr. Ivers has just described to you that he's hot, you know,
15 he's upset.

16 (Audio recording resumed.)

17 "And it's fine to be hot, but you can't -- you
18 can't hurt anybody."

19 "I never said I was going to hurt anybody."

20 (Audio recording paused.)

21 BY MR. KELLEY:

22 Q. That was the \$64,000 question, was he going to hurt
23 anybody, right?

24 A. Yes.

25 Q. And he just told you again I'm not going to hurt

1 anybody?

2 A. He did say that.

3 Q. Shortly after what we just heard, you and Deputy Wooton
4 left Minnetonka, went back to the station, right?

5 A. Yes.

6 Q. And that September 1st interview/discussion, whatever
7 you want to call it, that was the last time you spoke to
8 Mr. Ivers before -- oh, probably ever, right? That was the
9 last time you spoke to him?

10 A. That was the last time I spoke to him, yes.

11 Q. So as part of this investigation, you were the PII.
12 What does that mean again?

13 A. Protective intelligence investigator.

14 Q. So you were in charge of the investigation into
15 Mr. Ivers?

16 A. Yes, for one year or for --

17 Q. For one year until Deputy Wooton took over?

18 A. Yes.

19 Q. So between August -- or, no, sorry, October 2016 when he
20 sent some of the first letters into the court, you were
21 there?

22 A. Yes.

23 Q. Okay. January 2017 when you had the pretrial hearing
24 and the trial, you were there?

25 A. Yes.

1 Q. Okay. You had interactions with Bob?

2 A. Yes.

3 Q. More extensive than any other marshal, right?

4 A. Yes.

5 Q. Okay. And then you continued monitoring the situation
6 until September 2017?

7 A. Yes.

8 Q. And then you had that interview that lasted, I don't
9 know, 20 minutes, something like that, on September 1st?

10 A. Correct.

11 Q. Would you say that you had more interactions with
12 Mr. Ivers than anybody else in the investigation?

13 A. Um --

14 Q. Anybody in law enforcement?

15 A. Yeah, that I know of. Yeah. You know, I know there was
16 some contact afterwards. I didn't read those reports and I
17 don't know too much about it. But up until that point, I
18 think I had more contact with him than anybody.

19 Q. So in all of your interactions with Mr. Ivers, you knew
20 that he said inappropriate things, right?

21 A. Yes.

22 Q. He was fairly well-behaved in court?

23 A. Yes.

24 Q. You know he's not an attorney?

25 A. Correct.

1 Q. I think everybody knows that.

2 He doesn't fully grasp how the court system works?

3 A. I --

4 Q. He did a decent job in January as a layperson, right?

5 A. Yes.

6 Q. But he doesn't have an attorney's understanding of the
7 rules of evidence?

8 A. I can't answer that. I don't know what his knowledge of
9 the rules of evidence are.

10 Q. Okay. Just suffice it to say he's not an attorney?

11 A. Yes.

12 Q. You know that Mr. Ivers vents when he's upset?

13 A. Yes.

14 Q. It's his way of processing his emotions?

15 A. Yeah. He lets it out.

16 Q. Okay. And he's told you over the course of, I don't
17 know, roughly a year that you interacted with Bob, he has
18 told you how hurt he was about his friend dying, right?

19 A. He mentioned that, yeah. It wasn't continual, but he
20 mentioned it.

21 Q. Okay. And then that he felt like he did not get a fair
22 trial?

23 A. Um, yeah. The September 1st interview he -- that's kind
24 of what he was saying.

25 Q. Okay. And he was processing those things?

1 A. Yes.

2 Q. He felt hurt by them, and his way of processing it was
3 venting?

4 MS. ALLYN: Objection, calls for speculation.

5 THE COURT: Sustained.

6 BY MR. KELLEY:

7 Q. You routinely described Mr. Ivers as friendly and
8 cooperative.

9 A. With me, yes.

10 Q. So in the entire time you knew him, he was friendly and
11 cooperative with you?

12 A. Always with me, yes.

13 Q. And he was well-behaved or behaved well enough in court
14 not to get in trouble, right?

15 A. Yes.

16 Q. So you stepped off the case and Deputy Wooton took over
17 sometime around September 2017?

18 A. Sometime around there, yes.

19 Q. So after that.

20 At that point, you had not arrested him for
21 anything, had you?

22 A. No.

23 Q. I think I heard you testify to the government in
24 September of 2017 you considered him just a potential
25 threat?

1 A. Could you repeat that.

2 Q. You considered -- so you testified to the government
3 your conclusion after September 1st was he was just a
4 potential threat?

5 A. Yes.

6 Q. Not an actual threat?

7 A. Well, there's no way to know that unless somebody --

8 Q. You did say potential threat?

9 A. Yes, potential.

10 Q. Okay. You kept the investigation open?

11 A. Yes.

12 Q. Just to be clear, after September 1st, Mr. Ivers had no
13 correspondence whatsoever with Judge Wright or her chambers
14 that you know of?

15 A. Right. Not that I know of. Correct.

16 Q. You're aware of this phone call that happened on
17 February 27th, 2018 between Mr. Ivers and his two attorneys?

18 A. I have heard about it from Deputy Wooton.

19 Q. So you were not on that phone call?

20 A. No.

21 Q. Okay. You have no knowledge about what was said on that
22 phone call?

23 A. I don't.

24 Q. Okay.

25 A. I mean, I -- it's been relayed to me.

1 Q. You were not there personally, so you have no personal
2 knowledge of what was said on that phone call?

3 A. Correct.

4 MR. KELLEY: One second, Your Honor.

5 (A brief discussion was held off the record.)

6 BY MR. KELLEY:

7 Q. You're aware that the marshals went to visit Mr. Ivers
8 in North Dakota on March 14th, 2018, correct?

9 A. I'm aware of it, but I was doing a completely different
10 job then so I paid no attention to any -- what was going on
11 so --

12 Q. Did Deputy Wooton ask if you would go out there and meet
13 Bob Ivers in North Dakota?

14 A. Asked if I would go to North Dakota?

15 Q. Did he?

16 A. I don't recall that.

17 Q. Did you talk to -- so I think it was Deputy Seyfried and
18 Deputy Wickenheiser went to interview Mr. Ivers on March
19 14th. Did you talk to either of them before they
20 interviewed Mr. Ivers?

21 MS. ALLYN: Objection, foundation.

22 THE COURT: Overruled. You can lay foundation.

23 BY MR. KELLEY:

24 Q. So you're aware that Deputy Seyfried and Deputy
25 Wickenheiser went to interview Bob Ivers on March 14th,

1 2018?

2 A. Yeah, with the caveat that it was getting fuzzy for me
3 because I was not involved in the investigation then. So
4 anything I knew about that was maybe passing somebody in the
5 hallway and saying, hey, we're going to North Dakota for
6 this or that. I wasn't briefed on it. I didn't read
7 reports.

8 Q. Okay.

9 MR. KELLEY: No further questions, Your Honor.

10 THE COURT: All right. Ms. Allyn, do you have
11 some redirect that would be brief so we can get the jurors
12 to lunch or is it longer than that that you think we should
13 --

14 MS. ALLYN: Your Honor, I'll try to be brief. My
15 only hesitation is when lawyers say that and then they're
16 not brief, that's held against them. I'll do my best.

17 THE COURT: The jury knows you're the only thing
18 between us and lunch.

19 MS. ALLYN: Thank you for reminding us all, Judge.
20 I will be brief.

21

22 **REDIRECT EXAMINATION**

23 **BY MS. ALLYN:**

24 Q. Deputy Hattervig, I have to take you back a little bit
25 to the beginning of the cross-examination. There are a

1 series of questions in showing you letters, like Exhibit 1,
2 Exhibit 11. You looked at all those letters; is that right?

3 A. Yes.

4 Q. All those letters, that all makes up the case file that
5 you have against Mr. Ivers that brings you here today to
6 testify, doesn't it?

7 A. Yes.

8 Q. And there were some questions about Mr. Ivers being
9 polite and cooperative in the courtroom for his pretrial and
10 his trial. Do you remember those questions?

11 A. Yes.

12 Q. Were there multiple armed guards in that courtroom on
13 all those occasions that Mr. Ivers was polite?

14 A. Yes.

15 Q. And did Mr. Ivers know that there were multiple armed
16 guards in the courtroom during that time?

17 A. Yes.

18 Q. Now, I just want to be clear because there's some
19 questions in a police report -- I'm sorry, in your report
20 following the pretrial where defense counsel was asking you
21 about you concluded that Mr. Ivers didn't pose a threat.

22 You didn't conclude that on January 4th, did you?

23 A. No.

24 Q. Any questions the defense counsel was asking you had to
25 do with you were quoting what Mr. Ivers said, right?

1 A. Right. I was paraphrasing what Mr. Ivers told me.

2 Q. Was it your assessment that Mr. Ivers was not a threat
3 at the January 4th, 2017 pretrial?

4 A. No.

5 Q. In fact, did you continue to believe that Mr. Ivers
6 could pose a threat?

7 A. Yeah. There was still a concern definitely.

8 Q. There's been a lot of talk in some of the venting stuff,
9 right?

10 A. Yes.

11 Q. And the processing stuff, right?

12 A. Yes.

13 Q. This I need to process idea, that came from Mr. Ivers,
14 right?

15 A. Yes.

16 Q. It's not your words saying this is just him processing,
17 is it?

18 A. Well, I'm agreeing with him to some point and saying
19 that I understand what he's saying, so yeah.

20 Q. Are you doing that to build rapport or just because you
21 don't care, you think this guy is just processing?

22 A. To build rapport, to keep him talking, and also I'm
23 hoping that he will agree with me on certain other things
24 about, you know, you didn't mean this as a threat and, you
25 know, you don't want the people to be afraid of you. I was

1 trying to get him to agree with me on those things, on those
2 points.

3 Q. You don't think it's -- he is just processing at any of
4 the stage that you talked to him, do you?

5 A. It would be my hope that that would be all it would be,
6 but I have no way of knowing that he is not going to
7 actually do something. I would be worried about it.

8 Q. So whether he calls it venting or processing, you have
9 to keep it open as an investigation?

10 A. You can vent and process and also commit an act of
11 violence, so it was concerning.

12 Q. Okay. So just because somebody says they are venting
13 doesn't mean they're not a threat?

14 A. Correct.

15 Q. And just because they say they are processing doesn't
16 mean they don't have other ways of acting out on their
17 anger, does it?

18 A. Yes.

19 Q. Venting and processing can be just one way to act on
20 anger, isn't it?

21 A. Yes.

22 Q. If somebody is that angry, they still pose a threat
23 whether --

24 MR. KELLEY: Objection, Your Honor, leading.

25 THE COURT: Sustained.

1 BY MS. ALLYN:

2 Q. Can somebody pose a threat still even if they are
3 venting?

4 A. I think it's an indicator that they might pose a threat.

5 Q. There were some questions about the defendant being in
6 dire straits, not having a car, and all that conversation.
7 Do you recall that?

8 A. Yes.

9 Q. When Mr. Ivers talks about being desperate, doesn't that
10 mean his desperation could make him more of a threat?

11 A. It's the same. It's concerning.

12 Q. Concerning how?

13 A. Well, if a person feels that their life is over, they
14 have nothing left, you know, that could lead them to do
15 things that normal people wouldn't do.

16 Q. You know, in this January 2017 conversation where
17 there's some talk about venting, did the defendant admit to
18 you it's more than just venting, he's also doing it to get
19 people to jump?

20 A. Yeah, he said he was doing it to get the court process
21 to move along faster and to get what he wanted.

22 Q. So it's not just his own processing, right? He is
23 wanting to get people to do what he wants, right?

24 A. Yes.

25 Q. There's some questions about the profanity or not, how

1 profanity is not illegal, right?

2 A. Correct.

3 Q. I guess that's sort of obvious. But you did say the
4 profanity is concerning, right?

5 A. Yes.

6 Q. Does the profanity in this system sort of show a level
7 of disrespect to the judges?

8 A. Um, yes.

9 Q. And does that level of disrespect indicate a security
10 risk?

11 A. I think it's an indicator that he is willing to cross
12 lines that other people aren't willing to cross.

13 Q. If you are willing to act out and use profane language,
14 you might be willing to act out in other ways?

15 A. It would be concerning.

16 Q. With respect to this sort of idea of Mr. Ivers' proper
17 decorum in trial, it wasn't just the armed guards; you also
18 escorted him around the building, didn't you?

19 A. Yes.

20 Q. And there's a good level of security in this building,
21 wouldn't you say?

22 A. Yes.

23 Q. There's the metal detector, things like that?

24 A. Correct.

25 Q. So when defense counsel asks you a bunch of questions

1 about how Ivers never came back to this building after his
2 trial, there's a lot of security in this building, isn't
3 there?

4 A. Yes.

5 Q. There were some questions -- oh, I'm sorry -- the
6 September 1st interview, if you could turn to that. There
7 was a question about how Mr. Ivers said, well, I'm not going
8 to hurt anybody, right?

9 A. Yes.

10 Q. He tried to tell you that. But did you take a different
11 conclusion from that based on Mr. Ivers' tone or demeanor?

12 A. Which conversation was that again?

13 Q. September 1st when he claimed, well, I'm not going to
14 hurt anybody.

15 A. I recall him saying that.

16 Q. And how did you feel about that, when he said that?

17 MR. KELLEY: Objection, Your Honor.

18 THE COURT: Overruled.

19 THE WITNESS: Well, I was glad that he said it. I
20 mean, I was trying to get him to agree with me more on those
21 kind of things. It was -- it was -- it was good that he
22 said that, but he also said a lot of other things that were
23 troubling.

24 BY MS. ALLYN:

25 Q. And how about any continued demeanor or tone that added

1 to what you thought was troubling?

2 A. He was angry the whole time, and he was saying that he
3 was glad that the court employees were afraid, and he was --
4 he said they made their bed or something like that, so he's
5 glad.

6 Q. So you are still concerned with him even though he might
7 have said other things like I won't hurt anybody? You were
8 still concerned?

9 A. Yeah. He didn't back off much at all.

10 Q. Just because he says that doesn't mean he's not going to
11 do it?

12 A. Well, you know -- and, again, I'm just trying to predict
13 the future and what he's going to do and there's no way to
14 do that. There were a lot of red flags, put it that way.

15 Q. What were some of those red flags?

16 A. That he was glad that people were afraid of him; that he
17 had, you know, these feelings that made him feel like a
18 walking bomb or a ticking bomb; and his despondence about,
19 you know, the fact that he didn't get this \$100,000 was like
20 the end of everything. It made me worry that he would take
21 some sort of action.

22 Q. Now, there are some questions about how the letters
23 seemed to stop end of August 2017. Do you remember those
24 letters -- or those questions?

25 A. Yes.

1 Q. Every time that Mr. Ivers was sending letters to the
2 court, he got a visit from you, didn't he?

3 A. Not on every letter. But, you know, not too far after
4 the letters he did get a visit.

5 Q. So he sent some letters fall of 2017 (sic) and you --
6 fall of 2016 and you visit with him in January of 2017,
7 right?

8 A. Yes.

9 Q. And he sends letters end of August 2017, and you visit
10 him September 1st, 2017, right?

11 A. Correct.

12 Q. So if he wants to scare Judge Wright, he better find
13 another plan, right?

14 MR. KELLEY: Objection, Your Honor.

15 THE COURT: Sustained.

16 BY MS. ALLYN:

17 Q. Now, I think defense counsel asked you some questions
18 about a September 1st potential threat versus actual threat.
19 Do you recall that?

20 A. September 1st potential threat versus actual threat?

21 Q. I'll phrase it a little better. He was talking to you
22 about the September 1st interview, and then after that you
23 had decided it was just a potential threat; is that right?

24 A. I wouldn't say "just." I mean, potential threat is a
25 potential threat.

1 Q. And you didn't get to finish your answer about being an
2 actual threat or not. What were you trying to answer?

3 A. Um, well, I mean, an actual threat I would define as
4 somebody that we know is going to do something, and we just
5 don't have a way of knowing that. So there is always a
6 potential.

7 Q. Or if they were to actually issue a threat like saying
8 they plan to kill a judge?

9 A. If they said I'm coming to kill somebody, then I guess
10 that would be an actual impending emergency.

11 Q. Is your protection of judges limited to the courthouse?

12 A. No.

13 Q. What about where they live?

14 A. Yes.

15 Q. What about less secure places than this building?

16 A. Yes.

17 Q. So if somebody did want to hurt a federal judge, can
18 they find them in places less secure --

19 MR. KELLEY: Objection, Your Honor. We are
20 outside the scope of cross.

21 THE COURT: Overruled.

22 BY MS. ALLYN:

23 Q. Can they find those judges in places less secure than
24 this building?

25 A. Yes.

1 Q. So to come somewhere after August 2017 that's less
2 secure to find a judge, that's possible for Mr. Ivers?

3 A. Yes.

4 MS. ALLYN: Thank you. No further questions.

5 THE COURT: Okay. Mr. Kelley, any recross?

6 MR. KELLEY: No, Your Honor.

7 THE COURT: All right. Ladies and gentlemen,
8 we'll be in recess until 1:30. Remember the previous
9 admonition of the Court.

10 THE COURTROOM DEPUTY: All rise.

11 (A lunch recess was taken.)

12 THE COURTROOM DEPUTY: All rise for the jury.

13 THE COURT: Please be seated.

14 Ms. Allyn.

15 MS. ALLYN: Thank you, Your Honor. At this time,
16 the government calls Heather Arent-Zachary to the stand.

17 THE COURT: Ms. Arent-Zachary, if you would place
18 yourself in the witness box, please. And then raise your
19 right hand and look at the ladies and gentlemen of the jury.

20 (Witness administered oath by the Court.)

21 THE COURT: Please be seated.

22 MS. ALLYN: Thank you, Your Honor.

23
24 **HEATHER ARENT-ZACHARY**

25 **DIRECT EXAMINATION**

1 **BY MS. ALLYN:**

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. So you're sort of familiar with courtrooms, aren't you?

5 A. I am.

6 Q. Can you tell the jury where do you work?

7 A. I work at the federal court in Minneapolis.

8 Q. And who do you work for?

9 A. I work for Chief Judge John Tunheim.

10 Q. And is he a United States federal judge with the
11 District of Minnesota?

12 A. He is.

13 Q. What is your job title for Judge Tunheim?

14 A. Courtroom Deputy.

15 Q. Do you know a Terianne Bender?

16 A. I do.

17 Q. Is that the same job title that she has?

18 A. Terianne has a combined position, so it's slightly
19 different from mine, but we do much of the same work.

20 Q. And how are the positions different?

21 A. She also functions as the judicial assistant for Judge
22 Nelson (sic), so there's more judge-specific administrative
23 work for her.

24 Q. I think you said "Judge Nelson," but who does Terianne
25 Bender work for?

1 A. Oh, I'm sorry. Judge Wright. Excuse me.

2 Q. Judge Nelson is a different judge in this district?

3 A. Yes. She works for Judge Wright.

4 Q. Let me back up. Where did you work before working for
5 Judge Tunheim?

6 A. I worked in the Clerk's Office.

7 Q. And how long did you work in the Clerk's Office?

8 A. In this district, for two years.

9 Q. When you say "Clerk's Office," what does that mean?
10 What is a Clerk's Office?

11 A. The Clerk of Court is the administrative arm of the
12 court. The clerk keeps the record.

13 Q. And is that like the documents filed in a case?

14 A. Yes, docket, documents. They make sure that people or
15 parties who need access to the judges are able to get it.

16 Q. File all the paperwork, things like that?

17 A. Yes.

18 Q. How long have you worked for Chief Judge Tunheim?

19 A. Five years.

20 Q. What are some of your official duties in working for a
21 federal judge like Chief Judge Tunheim?

22 A. I supervise and coordinate all aspects of his caseload.
23 So that includes criminal and civil cases, scheduling
24 hearings, making sure that things move along.

25 Q. You said "criminal and civil." What are the differences

1 between those cases, just generally?

2 A. Criminal cases are brought by the United States of
3 America. Civil cases can be brought by anyone.

4 Q. What about issuing orders? Do you have any function for
5 your job with respect to Judge Tunheim issuing orders and
6 things of that nature?

7 A. I may docket orders that he's issued, place them on the
8 record.

9 Q. And what are some of your duties and responsibilities
10 then sort of day-to-day with Judge Tunheim?

11 A. Every day I check in, see what was filed the day before,
12 and determine whether or not I need to follow up or take any
13 action on it.

14 I will make sure that hearings scheduled for that
15 day or that week or the next week, that everything is ready
16 either on the public kiosk, on the docket. Make sure that
17 the Judge has all the materials he needs, and that everybody
18 is going to show up.

19 Q. Do you help with jury or bench trials at all?

20 A. Yes.

21 Q. How so?

22 A. I would schedule them. I request the jury. I make sure
23 that we have all the motions heard before we get to the
24 trial. And, I mean, I basically -- when people ask me what
25 I do, I say the man behind the curtain. I make sure that

1 whatever needs to be done before any kind of proceeding is
2 done.

3 Q. Before the Judge were to take the bench, say?

4 A. Yes.

5 Q. And you've said things about documents being filed and
6 docketing. Is there a specific, I guess, electronic system
7 that takes care of that?

8 A. There is.

9 Q. Can you explain that a little.

10 A. So there used to be paper dockets and the courts
11 progressed, along with everyone else, to an electronic
12 docketing system where that is the record of all the
13 proceedings.

14 So it starts with, for a civil case, a complaint
15 and then goes from there. There will be an answer or not or
16 whatever the case calls for. But it's all kept
17 electronically. We may get paper documents, but when we do,
18 those are scanned and made into a pdf and uploaded
19 electronically.

20 Q. Sort of going back to your daily job
21 duties/responsibilities, what about phone calls or
22 correspondence? What duties do you have with respect to
23 that kind of contact with chambers?

24 A. Any phone calls or correspondence that are case related
25 come to me. And I either respond to them myself or have the

1 Judge review it and respond in whatever manner he directs me
2 to.

3 Q. What about with respect to letters?

4 A. Same for letters. I get all the letters. I review
5 them. Depending on what they are, I may be able to
6 determine what needs to happen without the Judge's input,
7 but very often I show them to him and then do whatever it is
8 he wants me to do with them.

9 Q. You said something about getting calls, letters that are
10 case related, right?

11 A. Yes.

12 Q. Is that because although Judge Tunheim is a Chief Judge,
13 does he have his own caseload?

14 A. Yes.

15 Q. Do you sometimes get communications, though, to Judge
16 Tunheim just based on the fact that he's the Chief Judge?

17 A. Yes.

18 Q. Can you explain a little bit about that.

19 A. Well, like any organization, if people don't know who to
20 contact or they have a complaint, generally it seems like
21 the idea is to go to the top, and he is currently the top.
22 So that does generate some of the contacts I get.

23 Q. Are they trying to seek Judge Tunheim to do something
24 for them, things like that?

25 A. Usually.

1 Q. What's the volume of letters and phone calls you get in
2 your role working for the Chief Judge?

3 A. It really depends. I mean, summer can be quieter
4 because the lawyers are on vacation, they're not calling me.
5 But it really just depends on our caseload and what's going
6 on with it. If we have things that are coming up to trial,
7 I'm usually busier than not.

8 Q. Would you say at least several calls or letters a day?

9 A. Oh, yes.

10 Q. So a daily occurrence?

11 A. Oh, yes. Yes.

12 Q. Are you familiar with the name Robert Ivers?

13 A. I am.

14 Q. And, generally, how are you familiar with Mr. Ivers?

15 A. I had some contact with Mr. Ivers in my role as working
16 for the Chief Judge.

17 Q. What were some of the -- so you had contact. What were
18 some of the type of communications you had with Mr. Ivers?

19 A. Phone calls and letters.

20 Q. Does it sound like these communications would have been
21 from summer of 2017?

22 A. Yes.

23 Q. I guess starting with maybe the first phone call you
24 remember, what's the first phone call you remember receiving
25 from Mr. Ivers in the summer of 2017?

1 A. He was calling to check on an order he was expecting
2 from Judge Wright.

3 Q. And do you recall how you responded or anything more
4 about that conversation?

5 A. I looked up the case so that I had some context for his
6 inquiry. And I remember that there had been a trial, and he
7 was awaiting an order from the Judge after the conclusion of
8 that trial, and it had been a few months. And I just
9 assured him that I'm sure the Judge is working on it and it
10 would be issued as soon as it was ready.

11 Q. So you were able to, you say, look up the case. What
12 does that mean? How so?

13 A. I looked it up on the electronic record.

14 Q. And did you see who the judge was that was assigned to
15 Mr. Ivers' case?

16 A. I did.

17 Q. And who was that?

18 A. Judge Wright.

19 Q. Is she also a United States federal judge for the
20 District of Minnesota?

21 A. She is.

22 Q. Does she have similar official duties as Judge Tunheim,
23 excluding his chief duties?

24 A. Yes.

25 Q. So, I'm sorry, I think you said this, but if you can

1 remind me, what had you noticed about whether this order had
2 come out or not?

3 A. It hadn't come out yet.

4 Q. And that's what Mr. Ivers was calling about?

5 A. Yes.

6 Q. During this phone call with Mr. Ivers, how is his tone?
7 How is his demeanor with you?

8 A. It was -- I recall it being fine. I mean, he certainly
9 was hoping to get the order soon, but it was a perfectly
10 civil interaction.

11 Q. Any swearing?

12 A. No. Nope.

13 Q. So were you aware then that some point later that
14 summer, Judge Wright did issue a ruling on Mr. Ivers' case?

15 A. Yes.

16 Q. Was that a ruling favorable or unfavorable to Mr. Ivers?

17 A. I believe it was unfavorable.

18 Q. After that unfavorable ruling, did you ever hear from
19 Mr. Ivers after that?

20 A. I did.

21 Q. And can you explain to the jury what the next
22 communication was you had with Mr. Ivers after Judge
23 Wright's ruling.

24 A. He was not happy with her decision, and he wanted Chief
25 Judge Tunheim to do something about it.

1 Q. And how is it that he made that communication to you, by
2 phone call?

3 A. Yes.

4 Q. I guess we'll start -- you get a phone call from
5 Mr. Ivers?

6 A. Yes.

7 Q. And tell me how it goes. What does he say?

8 A. Well, he made it clear that he believed Judge Wright had
9 erred in her order, and he was upset and wanted Judge
10 Tunheim to do something about it. That's not how it works.
11 Judge Tunheim doesn't review other judges' orders from the
12 same court, so he would have to file an appeal. I don't
13 remember specifically what I said, but I'm sure I would have
14 told him that the way to address that would be to file an
15 appeal.

16 Q. And how did Mr. Ivers continue in his conversation with
17 you then?

18 A. He was not happy with that. He did not want to go
19 through the process of an appeal. He wanted something
20 faster. But those are how things proceed, and all I can do
21 is provide information.

22 Q. Did he ever say anything in the phone call that
23 concerned you?

24 A. He did.

25 Q. And what was that?

1 A. He talked about how angry he was. He was mad, and he
2 said he was a walking bomb at one point, and that sort of
3 language is very attention-getting.

4 Q. You said he was "mad." Did he characterize that, like
5 crazy mad, something like that?

6 A. Yes.

7 Q. Is that --

8 A. Crazy mad, yeah.

9 Q. And what was the bomb comment he said?

10 A. He was crazy mad, and he didn't know what to do with it,
11 and he described himself as a walking bomb because he was so
12 frustrated.

13 Q. And how did you feel when you heard that?

14 A. It was alarming.

15 Q. You get a lot of calls every week?

16 A. I do.

17 Q. How commonly do you feel alarmed by phone calls?

18 MR. KELLEY: Objection, Your Honor, relevance.

19 THE COURT: Overruled.

20 BY MS. ALLYN:

21 Q. You may answer.

22 A. Rarely.

23 Q. Did Mr. Ivers say anything about Judge Wright during
24 this phone call?

25 A. Yes, that she didn't know the law, that she didn't know

1 what she was doing, and he wanted Judge Tunheim to do
2 something about his case.

3 Q. How would you characterize Mr. Ivers', I guess, focus or
4 not on Judge Wright?

5 A. He was clearly unhappy with her specifically.

6 Q. Not unhappy with anybody else?

7 A. No.

8 Q. Did he complain about the insurance company, for
9 example?

10 A. I don't recall that.

11 Q. What was Mr. Ivers' tone with you during the call?

12 A. I mean, he was emotional. He was upset. I didn't feel
13 personally threatened. He didn't swear at me. I've had
14 other instances where people use colorful language, but he
15 did not, which I appreciated. But he was clearly really
16 emotional and upset.

17 Q. So you said you didn't feel personally threatened. You
18 are distinguishing that between what?

19 A. Well, you know, I'm an administrator. Right? I mean,
20 I'm sort of a cog. I think he understood that I didn't
21 issue the order. There wasn't anything I could personally
22 do. I don't feel like he expected me personally to do
23 something. But he was trying to find a way to get what he
24 wanted from the Court.

25 Q. Were you concerned from that phone call, though?

1 A. Oh, yes.

2 Q. Why?

3 A. It's unusual for someone to use language like "walking
4 bomb."

5 Q. And who were you concerned for?

6 A. The Judge.

7 Q. What Judge?

8 A. Pardon me, Judge Wright.

9 Q. How was your perception of what this "bomb" language is?

10 A. My perception of it? Well, it's threatening.

11 Q. How did you try to respond to Mr. Ivers?

12 A. Again, it was a year ago, so I don't remember specifics,
13 but I'm sure that I gave him information regarding how he
14 needed to file an appeal and what the Chief Judge's role in
15 this would be. But, I mean, any time I have a situation
16 like that, I just try to convey information so that the
17 people can take actions that are appropriate.

18 Q. So you hang up from this phone call. Right? How do you
19 feel when you hang up?

20 A. Concerned.

21 Q. And what's the concern?

22 A. It was -- it was disquieting. It was that -- that kind
23 of conversation is not what I normally have with people when
24 they call me, and I felt like it needed some follow-up.

25 Q. Was there anything about that terminology, "bomb"?

1 A. Absolutely.

2 Q. Why did that matter to you?

3 A. Well, I mean, bombs are inherently destructive. It's
4 not something that you joke about or particularly when it
5 comes to judges.

6 Q. And you were sitting in a federal courthouse when you
7 got this call, right?

8 A. Yes, I was.

9 Q. And Mr. Ivers called your court phone number, right?

10 A. Yes, he did.

11 Q. Did you have concerns with that connection of "bomb" and
12 federal courthouses?

13 MR. KELLEY: Objection, Your Honor, leading.

14 THE COURT: Sustained.

15 BY MS. ALLYN:

16 Q. What did you do after you hung up?

17 A. I emailed Judge Wright's assistant, Terianne, and the
18 marshals.

19 Q. And why did you do that?

20 A. Because whenever you have a contact like that that is
21 concerning to you, you're supposed to escalate it to the
22 marshals. And I didn't know if Terianne had had any contact
23 with Mr. Ivers directly before. I just wanted to warn her,
24 I guess let her know that maybe she was going to be getting
25 phone calls.

1 Q. Why did you think Terianne needed to know, in addition
2 to the marshals?

3 A. Well, it's good to know what might be coming your way.
4 If someone had spoken to a person that was unhappy with my
5 Judge, I would hope they would let me know because people
6 usually follow up. They don't stop with just one call
7 necessarily. They might go to other people if they are not
8 getting what they want.

9 Q. Was this the issue of being focused on the Judge, not
10 just the decision?

11 A. Yes.

12 Q. So some worry more towards Judge Wright? Is that what
13 you're saying?

14 MR. KELLEY: Objection, Your Honor, leading.

15 THE COURT: Sustained.

16 BY MS. ALLYN:

17 Q. How soon after you got this call did you report it to
18 the marshals and Terianne?

19 A. I believe it was immediately.

20 Q. In the last five years of getting these phone calls, how
21 many times have you reported a call like this to the
22 marshals?

23 MR. KELLEY: Objection, Your Honor, relevance.

24 THE COURT: Overruled.

25 THE WITNESS: I can't specifically remember any

1 other instance. There might've been one or two. It's
2 fairly unique.

3 BY MS. ALLYN:

4 Q. Now, you mentioned you sent an email reporting this
5 phone call with Mr. Ivers; is that right?

6 A. I did.

7 MS. ALLYN: Your Honor, may I approach?

8 THE COURT: You may.

9 BY MS. ALLYN:

10 Q. All right. I've handed you a folder labeled Exhibit 24.
11 Can you look at that exhibit.

12 A. Yes.

13 Q. And do you recognize that exhibit?

14 A. I do.

15 Q. How is it that you recognize that exhibit?

16 A. It's the email that I sent to Terianne and the marshals.

17 MS. ALLYN: Your Honor, at this time the
18 government would offer into evidence Exhibit 24.

19 MR. KELLEY: Objection, Your Honor, foundation.

20 MR. SCOTT: Pretrial statement. That's hearsay.

21 MS. ALLYN: Your Honor, it's the email that this
22 witness is testifying she sent. It's an action that she
23 took.

24 THE COURT: But I think the objection is the
25 exhibit is hearsay.

1 MS. ALLYN: Thank you. Your Honor, it's not
2 necessarily offered for the truth of the matter. It is
3 offered for the steps that were taken, the times that they
4 were taken, and what people did upon receiving this email.

5 THE COURT: Okay. Received.

6 MS. ALLYN: Thank you. Your Honor, may I publish
7 it?

8 THE COURT: You may.

9 BY MS. ALLYN:

10 Q. Okay. Do you see in the monitor before you Exhibit 24?

11 A. I do.

12 Q. It's kind of hard to see here, so I'm going to blow up
13 -- I'll get two different portions. Okay? Okay. Do you
14 see the part I blew up in front of you?

15 A. Yes.

16 Q. So who is this from?

17 A. Myself.

18 Q. And it's to who?

19 A. Terianne Bender and Tom Knutson.

20 Q. Who is Tom Knutson?

21 A. He is with the Marshal Service.

22 Q. And what's the date on this email?

23 A. August 23rd, 2017.

24 Q. And the time?

25 A. 9:00 a.m.

1 Q. So from what you can recall, how soon in time is this
2 email going out from when you received the phone call?

3 A. Well, based on when I usually get to work, I think the
4 first thing I probably did was call Mr. Ivers back and then
5 send this email. I think that's how I started my day.

6 Q. So certainly sent that same day that you got the phone
7 call, right?

8 A. Yes.

9 Q. All right. And can you read what you wrote.

10 A. "Hi, I just returned a call to Bob Ivers and he
11 described himself as a 'walking bomb'. He said he's crazy
12 angry and he doesn't know how to deal with it.

13 He's very upset with Judge Wright's rulings in his
14 case. He didn't make any direct threats to anyone, but I
15 thought I would pass on my conversation with him. He said
16 he put packages in the mail to Judge Tunheim, Judge Wright,
17 and Judge Thorson with a letter. The number I reached him
18 at is 561-350-2566. Thanks."

19 Q. And did you receive a response to this email?

20 A. I'm sure that I did, but I don't recall.

21 Q. The marshals did reach out to you, right?

22 A. Oh, certainly. Oh, yeah.

23 Q. By response -- I'm sorry, bad question. Not necessarily
24 an email response, but did the marshals respond because of
25 this report?

1 A. They did.

2 Q. How so?

3 A. They said that they would go and talk with Mr. Ivers.

4 Q. And I just want to clean up something on this exhibit
5 for the jury, the very top of the exhibit. Look at what
6 I've just highlighted now, please.

7 Sort of who's sending what to who on the part that
8 I've highlighted?

9 A. I am forwarding that to Farris Wooton.

10 Q. And what's the date of that?

11 A. September 4th, 2018.

12 Q. And just explain to the jury why is there a different
13 date on this exhibit, why that date?

14 A. The original didn't go to Farris, and I had been asked
15 to forward it to the marshals.

16 Q. You understood Farris Wooton to be a case agent working
17 on Mr. Ivers' case?

18 A. I did. Yes.

19 Q. Now, I'm not sure if I was fully understanding. As part
20 of your phone call with Mr. Ivers, I think -- did you say
21 something like you told him write letters or something of
22 that nature?

23 A. Oh, yes. Yes.

24 Q. Can you explain that a little bit.

25 A. Well, anyone that calls if they want the court to take

1 any kind of specific action, I'll tell them to write a
2 letter because the court doesn't take action on phone calls.
3 We need a record. So put it in writing and send it to us,
4 and that way we can do something about it.

5 Q. So when you told Mr. Ivers that, how did he respond?

6 A. Well, based on the email, he said he had already put
7 packages in the mail, so we were maybe getting something
8 soon.

9 Q. Okay. And so this phone call is August 23rd, 2017,
10 right?

11 A. Yes.

12 Q. And did you get some letters from Mr. Ivers following
13 that phone call?

14 A. We did.

15 Q. I'm going to show you what's in evidence as Exhibit 4.
16 I ask if you recognize Exhibit 4?

17 A. I did.

18 Q. And how is it that you recognize Exhibit 4?

19 A. It's a letter he sent that we received.

20 Q. So kind of blowing up Chief Judge John Tunheim, that's
21 your Judge?

22 A. Yes.

23 Q. You guys aren't in St. Paul, right?

24 A. No.

25 Q. But you get an email for the Chief Judge even if it's

1 sent to the St. Paul Courthouse?

2 A. Yes. There's interoffice mail. They send it to us.

3 Q. I'm showing you the postmark. Can you read when it's
4 postmarked?

5 A. August 22nd, 2017.

6 Q. So that's the day before the phone call with Mr. Ivers?

7 A. Yes.

8 Q. And shortly after getting this letter, do you recall
9 getting any other letters from Mr. Ivers?

10 A. I do.

11 Q. What was that?

12 A. I do.

13 Q. I'm going to show you what's in evidence as Government
14 Exhibit 11. Do you see that on your screen?

15 A. Yes.

16 Q. And do you recognize that letter?

17 A. I do.

18 Q. And how do you recognize that letter?

19 A. It's another letter we received from Mr. Ivers.

20 Q. All right. I'm going to blow up that postmark part
21 again. And what's the date on this letter?

22 A. August 25th, 2017.

23 Q. So about three days later does it sound like is when you
24 got it then?

25 A. Yes.

1 Q. Did you notice anything different between the two
2 letters when you received them?

3 A. Well, the red writing and its large lettering.

4 Q. Let's see if I can get this right. I didn't. Hold on.
5 I'm going to see if I can pull up each exhibit. All right.
6 Do you see that?

7 A. Yes.

8 Q. Okay. So if you were to look at the true Exhibit 4,
9 it's on your left?

10 A. It is.

11 Q. And Exhibit 11 on your right?

12 A. Yes.

13 Q. What did you notice as the difference between Exhibit 4
14 and Exhibit 11?

15 A. Well, the "pay attention" in red is --

16 Q. So Exhibit 11, the bottom, "pay attention" in different
17 color now, right?

18 A. Yes.

19 Q. I'm looking at Exhibit 4. What does it say at the
20 bottom of Exhibit 4?

21 A. "I WAS CHEATED BY ONE OF YOUR FEDERAL JUDGES AND I
22 DEMAND REDRESS."

23 Q. All in caps?

24 A. Right.

25 Q. Let's see if I can do this right. Exhibit 4, page --

1 see the back of the envelope of Exhibit 4?

2 A. Yes.

3 Q. And can you describe it.

4 A. It is plain, no writing.

5 Q. And Exhibit 11, I'm on page 2 now, the back of that
6 envelope, and how does that envelope compare?

7 A. That one has additional writing.

8 Q. And how so? What does it says?

9 A. It says, "Judge Wright is a corrupt judge."

10 Q. Now I'm going down a page on Exhibit 4 and I'm going to
11 go down the page on Exhibit 11. Do you see those side by
12 side, as well?

13 A. I do.

14 Q. Is it the same content of those two letters, between
15 Exhibit 4 and Exhibit 11 on page 3?

16 A. It is. The text is the same.

17 Q. And how otherwise is it different?

18 A. Exhibit 11 has more -- like the red ink and --

19 Q. Number 4 especially has red under it?

20 A. Yes.

21 Q. Can you read the sentence that's been, I guess, added
22 attention to it on Exhibit 11.

23 A. "The honorable action in this case is for Judge Wright
24 to reverse her decision."

25 Q. I see another difference on Exhibit 11, and I'm going to

1 highlight that. Can you read the part I've highlighted on
2 Exhibit 11.

3 A. "Received August 29, 2017, Judge Tunheim chambers."

4 Q. And who would have put that stamp there?

5 A. I did.

6 Q. Okay. I don't see that stamp on Exhibit 4. Why is it
7 on Exhibit 11?

8 A. I think that after -- well, I know that after receiving
9 the phone call from Mr. Ivers that I wanted to make sure I
10 noted specifically when we received that letter.

11 Q. Because why? I mean, why did you want to pay attention
12 to it now?

13 A. Well, it was the last in a line of several contacts.
14 And he was getting more and more sort of unhappy with each
15 contact, so I just felt like it would be a good idea to note
16 when we had received it.

17 Q. Did you let the marshals know about these letters?

18 A. I did.

19 Q. I just want to finish paging down. It's a little bit
20 more in the exhibit. Exhibit 4 I have gone to the next
21 page. I have done the same thing for Exhibit 11. Are they
22 different, I guess, sort of attachments to these letters at
23 this point?

24 A. Yes.

25 Q. In general, on Exhibit 4, what is this page about? Did

1 he just attach a document?

2 A. Yeah. It looks like it was a part of the Order or
3 something issued by Judge Wright.

4 Q. This document number thing --

5 A. Yes.

6 Q. -- is that that ECF system, how you file things?

7 A. It is.

8 Q. Now, the letter sent a few days later, that has, what, a
9 note from Mr. Ivers?

10 A. Yes.

11 Q. Can you, please, read that to the jury.

12 A. "Friday, August 25, 2017. If the Tallman verdict is not
13 reversed now (one week), I will inform Lori Swanson,
14 Attorney General Minnesota, of the corrupt decision of Judge
15 Wright. I will request her help in contacting officials of
16 the ADA to activate an investigation of Judge Wright's
17 decision based on the attached evidence and court file on
18 this case. Federal violation, Bob Ivers."

19 Q. And I think after this, if I can just page down each
20 exhibit now, it's just completely different from each other?

21 A. Yes.

22 Q. So we pointed out on these letters that it appears
23 Mr. Ivers is asking for Judge Tunheim to give him some
24 redress, right?

25 A. Yes.

1 Q. And did Judge Tunheim give Mr. Ivers any relief after he
2 received these letters?

3 A. No.

4 Q. The defendant did not get redress from Judge Tunheim?

5 A. No.

6 Q. Now, what did you do when you received these letters?

7 A. Well, I think the first one we forwarded on to Judge
8 Wright. We usually -- that's what we would do if we get
9 communications assigned to a different judge. Judge Tunheim
10 would review it and very often without comment just forward
11 it on to that other judge. I think that's what happened the
12 first time.

13 Then by the second letter it had a few contacts
14 and the marshals were involved, and I believe I made a copy
15 of it and gave it to the marshals.

16 Q. At that point, you just made sure the marshals were
17 involved?

18 A. Uh-huh.

19 MS. ALLYN: One moment.

20 (A brief discussion was held off the record.)

21 MS. ALLYN: Thank you. I have no further
22 questions, but defense counsel might.

23

24 **CROSS-EXAMINATION**

25 **BY MR. KELLEY:**

1 Q. Good afternoon.

2 The government showed you a series of letters just
3 a few minutes ago. Do you remember those?

4 A. I do.

5 Q. Two letters, in fact --

6 A. Yes.

7 Q. -- correct? Just two?

8 A. Yes.

9 Q. And those letters were from Mr. Ivers?

10 A. Yes.

11 Q. Okay. So you remember this is Government Exhibit 4?
12 You were shown this earlier?

13 A. Yes.

14 Q. Okay. And this is postdated August 22nd, 2017, correct?

15 A. It is.

16 Q. And it's to Chief Judge Tunheim?

17 A. Yes.

18 Q. It is not dated February 27th, 2018, correct?

19 A. No.

20 Q. It was not received on February 27th, 2018, was it?

21 A. No.

22 Q. It was not addressed to Judge Wright, was it?

23 A. No.

24 Q. It was not addressed to Fredrikson & Byron?

25 A. No.

1 Q. The second letter, this is Government's Exhibit 11. Do
2 you recognize this from a couple minutes ago?

3 A. I do.

4 Q. Okay. This one is postdated August 25th, 2017, correct?

5 A. It is.

6 Q. And also addressed to Judge Tunheim?

7 A. Yes.

8 Q. Like the other one, this is not dated February 27, 2018,
9 is it?

10 A. It is not.

11 Q. And it was not received by the courts on February 27,
12 2018, was it?

13 A. No.

14 Q. And it was not sent to Fredrikson & Byron?

15 A. No.

16 Q. Just talking about these letters, both of them are very
17 similar, right? The two letters, they contain copied
18 material that was in the first letter and is in the second
19 letter, right?

20 A. Yes.

21 Q. And what Mr. Ivers was asking the Chief to do was to
22 effectively overrule Judge Wright's decision?

23 A. Yes.

24 Q. That's not the proper procedure for asking for that
25 relief, right?

1 A. No.

2 Q. Mr. Ivers is not an attorney, very clearly?

3 A. Yes.

4 Q. And with his letters he attaches parts of court
5 documents that have highlighting and writing all over them,
6 correct?

7 A. Yes.

8 Q. So in some places there's yellow highlighting, correct?

9 A. Yes.

10 Q. Other places there's red highlighting under things?

11 A. Yes.

12 Q. Is it possible that Mr. Ivers thinks that these filings
13 are the correct way to ask for the relief he's asking for?

14 MS. ALLYN: Objection, calls for speculation.

15 THE COURT: Sustained.

16 BY MR. KELLEY:

17 Q. An actual attorney would know that this is not the
18 proper way to ask for this relief, right?

19 A. Yes.

20 Q. Okay. Let's turn to the August -- so that was an August
21 22nd letter, right?

22 A. Yes.

23 Q. And you received, was it, a voicemail from Mr. Ivers
24 that you returned or was it a phone call?

25 A. I think that I had more than one contact from Mr. Ivers,

1 so -- it was clear from the email that I was returning a
2 call in that particular instance. I think either likely
3 happened, one way or the other.

4 Q. I mean, it was over a year ago now, right?

5 A. It was.

6 Q. You can't really remember if it was a voicemail you were
7 returning or a direct call to you?

8 A. Well, based on the email, clearly I was returning a
9 voicemail. But as far as other contacts, I don't remember.

10 Q. And after you got this phone call, you felt like you
11 should forward it on to Terianne Bender, correct?

12 A. Yes.

13 Q. Judge Wright's clerk?

14 A. Yes.

15 Q. Okay. You told her that there were no direct threats
16 made by Mr. Ivers --

17 A. I did.

18 Q. -- right?

19 So even though he said the statement "walking
20 bomb" to you, and he said he was crazy angry, didn't know
21 how to deal with it, you still told Ms. Bender that there
22 were no direct threats?

23 A. I did.

24 Q. You said you had multiple phone calls with Mr. Ivers?

25 A. Yes.

1 Q. And in those phone calls he's never threatened you?

2 A. No, not personally.

3 Q. And he hasn't been angry with you, has he?

4 A. Not personally, no.

5 Q. So we have these two letters that I just showed you.

6 One is dated August 22nd. The other is dated August 25th.

7 After that, you didn't receive any communications from Bob,
8 did you?

9 A. I don't recall anything after the second letter.

10 Q. Okay. So nothing after August 25th, 2017?

11 A. Well, that's when it was mailed.

12 Q. So you might've received it a few days later?

13 A. I think we received it on the 29th or something. After
14 the marshals got involved, I never heard from him again.

15 Q. Okay. So this letter arrived and you received it before
16 September 1st, 2017, correct?

17 A. Yes.

18 Q. So, like, August 29th, 2017, correct?

19 A. That's when I stamped it.

20 Q. The marshals said they were going to go visit Mr. Ivers?

21 A. I know that they were going to. I don't know when it
22 happened, but I knew it was going to.

23 Q. And then you did not receive any correspondence from
24 Mr. Ivers again?

25 A. I did not.

1 MR. KELLEY: No further questions, Your Honor.

2 MS. ALLYN: Thank you, Judge. Just a few.

3

4

REDIRECT EXAMINATION

5 **BY MS. ALLYN:**

6 Q. Defense counsel asked you a question about how these
7 letters that Judge Tunheim received from Mr. Ivers were
8 asking Judge Tunheim for relief; isn't that right? Do you
9 remember those questions just a minute ago?

10 A. Uh-huh. I do.

11 Q. But if I'm looking here at Exhibit 11, page 4, isn't
12 Mr. Ivers also asking or at least telling Judge Tunheim that
13 he's going to retaliate against Judge Wright by reporting
14 her --

15 MR. KELLEY: Objection, Your Honor, legal
16 conclusion.

17 THE COURT: Well, she hadn't finished. If you
18 want to let her finish, I'll see if it's a legal conclusion.

19 Go ahead, Counsel.

20 **BY MS. ALLYN:**

21 Q. Is he threatening to report her to Lori Swanson, the
22 Attorney General, and the ADA?

23 A. Yes.

24 Q. He is not just asking for Judge Tunheim's help in these
25 letters, is he?

1 A. No. There will be consequences if he doesn't comply.

2 Q. Defense counsel asked you a question about the emails
3 saying there's no direct threats. You testified that you
4 found the language threatening. Is that because you thought
5 it was, what, indirect?

6 A. Um, well, there have been judges that have gotten bombs
7 in the mail. I mean, you don't joke around about judges and
8 bombs. I don't know. It's attention-getting.

9 Q. You still found it threatening?

10 A. Absolutely. Yeah.

11 Q. Even if it's a veiled threat?

12 A. It was enough to have someone follow up on it.

13 Q. Was he talking about a bomb but just not specific to a
14 person at that point? Is that it?

15 A. He just said, I'm a walking bomb, like he was clearly --
16 he was very upset and, you know, didn't know what to do with
17 it and was clearly just really unhappy with --

18 Q. So using the word "bomb" in connection with a tone or
19 demeanor?

20 A. Yes. Yes.

21 MS. ALLYN: Thank you. No further questions.

22 MR. KELLEY: Recross, Your Honor?

23 THE COURT: I'm sorry. Go ahead.

24 MR. KELLEY: Thank you.

25

RECROSS-EXAMINATION

BY MR. KELLEY:

Q. So as a clerk, you're familiar with the policies about the courts here, mailing policies specifically?

A. I don't deal with -- I don't do the receipt of the mail like from the post office, so --

Q. Let me ask it --

A. -- maybe in some way.

Q. Let me ask you a question. So you're aware that court security goes through and scans all the mail, letters that come to the judges?

A. They do.

MS. ALLYN: Objection, outside the scope of redirect.

THE COURT: Overruled.

THE WITNESS: Yeah, they do scan it.

BY MR. KELLEY:

Q. Okay. So everything that we've seen today would have been scanned by court security just as a matter of practice?

A. Yes.

MR. KELLEY: No further questions. Thank you.

THE COURT: Okay. You may step down.

Call your next witness.

MR. RANK: United States calls Tiffany Sanders.

THE COURT: Ms. Sanders, please stand and face the

1 members of the jury. Raise your right hand to be sworn.

2 (Witness administered oath by the Court.)

3 THE COURT: Please be seated.

4 MR. RANK: May I proceed, Your Honor?

5 THE COURT: You may.

6 MR. RANK: Thank you.

7
8 **TIFFANY SANDERS**

9 **DIRECT EXAMINATION**

10 **BY MR. RANK:**

11 Q. Good afternoon, Ms. Sanders.

12 A. Good afternoon.

13 Q. For the benefit of the court reporter, could you state
14 and spell your full name.

15 A. Sure. Tiffany, T-I-F-F-A-N-Y; Ann, A-N-N; Sanders,
16 S-A-N-D-E-R-S.

17 Q. Thank you, Ma'am.

18 Ma'am, what do you do for a living?

19 A. I'm the coordinator of the Pro Se Project.

20 Q. And what is the Pro Se Project?

21 A. It is a collaboration between this court, the federal
22 court here in the District of Minnesota, and the Minnesota
23 chapter of the Federal Bar Association to enhance access to
24 justice here in the courts for the civil pro se litigants
25 that the judges refer to the Project.

1 Q. And who participates in the Pro Se Project at least on
2 the lawyer end?

3 A. You know, it's volunteer lawyers that are admitted to
4 federal court in good standing that have malpractice
5 insurance is really about it.

6 Q. So those are the basic criteria?

7 A. Correct.

8 Q. And on the other side, that's the lawyer side, who
9 participates in the Pro Se Project on the participant's
10 side, the party side?

11 A. So when a litigant comes to this federal court on a
12 civil matter, the judges exercise discretion over whether
13 they'd like to issue a referral to that individual. And I
14 don't believe there's any rhyme or reason to the discretion.
15 It's just if it would benefit the court or the litigant or
16 both, the judge can issue that referral.

17 Q. So if there is a pro se party in federal court in
18 Minnesota and a judge decides it's a good idea to refer that
19 person to the Pro Se Project, that's how they might be
20 connected up to the Project?

21 A. Correct. And they refer plaintiffs and defendants.

22 Q. Okay. So, Ma'am, are you yourself a lawyer?

23 A. Yes.

24 Q. Are you currently practicing law?

25 A. No.

1 Q. In your role as director of the Pro Se Project, are you
2 practicing law?

3 A. No.

4 Q. Your role is administering that project?

5 A. Correct.

6 Q. At some point in time, did you receive a referral
7 related to the defendant in this case, Robert Ivers?

8 A. Yes.

9 Q. How did that come about?

10 A. So how it's set up, when the court issues a referral, it
11 generates a notice of electronic filing, an NEF, and I get a
12 copy of that via email. Back when Judge Davis was the Chief
13 Judge, he set up a system where I can get these electronic
14 filings and I can access the docket and look at filings
15 without a fee.

16 So Magistrate Judge Schultz issued a referral to
17 Robert Ivers referring him to the Project, and I received an
18 NEF, notice of electronic filing, of that referral letter.

19 Q. Okay. And as part of that, did you get also access to
20 Mr. Ivers' electronic file?

21 A. Correct.

22 Q. Meaning that you could look at all of the documents that
23 were on the docket sheet?

24 A. Correct.

25 MR. RANK: May I approach, Your Honor?

1 THE COURT: You may.

2 BY MR. RANK:

3 Q. Ms. Sanders, I'm going to put four exhibits in front of
4 you. I can take these from you. Thank you. I'm going to
5 ask you about Exhibit 25 first, if you want to take a look
6 at that. Do you recognize Exhibit 25?

7 A. Yes.

8 Q. Is that a document that was one of the documents in the
9 case that the Pro Se Project got a referral for for
10 Mr. Ivers?

11 A. Yes. It appears to be Docket No. 5.

12 MR. RANK: I would offer Exhibit 25 at this time.

13 MR. KELLEY: No objection.

14 THE COURT: Received.

15 BY MR. RANK:

16 Q. I will put 25 up on the screen. You can look at either
17 the one in the folder or look on the screen. It might help
18 to look at the screen because I'm going to blow portions of
19 it up. First of all, I'll blow up the top portion. And
20 this is called a case caption?

21 A. Yes.

22 Q. And the caption here shows that the case is Robert
23 Ivers, Plaintiff, versus CMG Life Insurance Company,
24 Defendant; is that correct?

25 A. That's what I'm seeing, yes.

1 Q. And there is -- at least with respect to the time that
2 you got the referral on this, what judge was this case in
3 front of?

4 A. So it looks like the Article III judge is Patrick
5 Schiltz and the magistrate judge is David Schultz.

6 Q. Okay. And so that's referenced in what I am pointing to
7 here? That's the "PJS"? That's Patrick J. Schiltz?

8 A. Correct.

9 Q. And then "DTS" is David T. Schultz?

10 A. Correct.

11 Q. And so the judge assigned to this case is Judge Schiltz
12 and Magistrate Judge Schultz?

13 A. That's what I'm seeing, yes.

14 Q. Were you aware as you were looking through the documents
15 that this was the second case that Mr. Ivers had filed
16 against this life insurance company?

17 A. Not in looking at this document, no.

18 Q. Did you come to learn that at a later time?

19 A. Yes, sir.

20 Q. Okay. So I'm going to take you down, because I want to
21 sort of bring you to where you were at the time that you got
22 the referral.

23 So this, first of all, looks like it was filed on
24 what date?

25 A. December 8th, 2017.

1 Q. Okay. And then I'm going to blow up this first
2 paragraph here. Maybe you can tell the jury kind of what
3 this first paragraph is telling us.

4 A. So just by my understanding of the court process, it may
5 help with enlightening the jury on this highlighted portion.
6 A lot of the pro se litigants the court refers to the Pro Se
7 Project are plaintiffs who have requested in forma pauperis
8 status. And what that means is that they're asking the
9 court to deem them to be in a financial situation where they
10 aren't able to afford their filing fee and it's waived. My
11 understanding is there's a federal statute that regulates
12 IFP status and judges not only look at the financial status
13 of the individual but also the sufficiency of their
14 complaint.

15 From what I recall and from reading this document
16 here, Mr. Ivers filed his complaint and requested IFP
17 status, and the Court -- and I believe this was from
18 Magistrate Judge Schultz -- issued an order saying it cannot
19 determine the IFP status at this time because the complaint
20 was deficient.

21 Q. I will take you to the next page of this document, page
22 2 up on the screen and highlighting or blowing up the second
23 full paragraph on page 2, and I will -- does this explain a
24 little bit more about why the complaint filed by Mr. Ivers
25 was deemed to be deficient by Magistrate Judge Schultz?

1 A. It appears so, yes.

2 Q. What does it show?

3 A. Well, it's saying -- or Judge Schultz is saying Ivers
4 pled an American with Disability Act claim, but he has not
5 pled a set of facts that could support that claim.

6 Q. Does he also indicate anything about what is alleged in
7 the complaint about the basis for the denial of the claim?

8 A. Looks like he does in that second highlighted sentence.
9 Judge Schultz is saying that the complaint alleges that the
10 life insurance was denied because Tallman lied on the
11 application.

12 Q. Lastly, the last sentence up there, what is the upshot
13 of that information?

14 A. "Ivers has therefore failed to state a plausible claim
15 for relief."

16 Q. And if I take you to the next paragraph and ask you to
17 take a look at the top sentence, what does that say?

18 A. "Because Ivers' complaint fails to state an actionable
19 claim for relief, he cannot be granted IFP status at this
20 time."

21 Q. So is there also some language in this document that
22 refers to the Pro Se Project?

23 A. I don't recall if Judge Schultz made the referral in
24 this order, which sometimes magistrates do. I do recall
25 there being a separate letter. If it's in here, I can look.

1 Q. I'm going to show you the last paragraph --

2 A. Okay.

3 Q. -- on here. Do you see that?

4 A. Yes.

5 Q. And does that show that at least he is contemplating
6 referring it to the Pro Se Project?

7 A. Yes.

8 Q. And so there's even a sentence at the bottom referring
9 to consulting with the FBA; is that correct?

10 A. Yes. Correct.

11 Q. What does that say?

12 A. "Ivers should make a concerted effort to consult with a
13 lawyer recommended by the FBA before attempting to file an
14 amended complaint."

15 Q. Then taking you to the last page -- this is the last
16 page of Exhibit 25, for the record it's page 4 -- and does
17 the order from Judge Schultz indicate some timing with
18 respect to filing an amended complaint?

19 A. Yes. He had 30 days from December 7th, 2017 to do so.

20 Q. Okay. So that would have been meaning that it would
21 have been due somewhere around January 6th or 7th?

22 A. Sure. Yes.

23 Q. I tried to do the math accurately.

24 I'm going to ask you now to take a look in front
25 of you at Exhibit 26 and see if you recognize that? Does

1 that appear to be another order issued in the case by
2 Magistrate Judge Schultz?

3 A. Yes. It just threw me off when I was looking at the
4 markings at the top with some different judges, but yes.

5 Q. It was an order that was issued after the order we just
6 looked at date-wise?

7 A. December 7th was the other one. This is December 20th.
8 So yes.

9 MR. RANK: I would offer Exhibit 26.

10 MR. KELLEY: No objection.

11 THE COURT: Received.

12 BY MR. RANK:

13 Q. So looking at Exhibit 26, this is the same case we were
14 just talking about. I am going to take you to -- blow up
15 the middle section of it.

16 Does it appear from this order that Mr. Ivers
17 sought some additional time to be able to file an amended
18 complaint?

19 A. It appears he requested an additional 60 days.

20 Q. And does it also appear that Judge Schultz granted that
21 request for an additional 60 days?

22 A. It does.

23 Q. In fact, pointing to the "is granted" language; is that
24 correct?

25 A. Yes.

1 Q. If you look at Exhibit 26, does it also mention you?

2 A. Yes.

3 Q. So I'm going to blow up the bottom of page 1. What does
4 that state?

5 A. "The Court also recommends that plaintiff contact
6 Tiffany Sanders, the FBA Federal Pro Se Project Coordinator
7 at:"

8 Q. And then on the next page is that your contact
9 information?

10 A. Yes.

11 Q. Is there also a letter attached to that order?

12 A. Yes.

13 Q. And what is that letter?

14 A. It is a December 11, 2017 letter to Mr. Robert Ivers
15 from the chambers of David T. Schultz, U.S. Magistrate
16 Judge.

17 Q. Have I blown up the top part of that letter on the
18 screen? Have I? I'm sorry. And this is page 3 of Exhibit
19 26 for the record.

20 A. Yes.

21 Q. And would this be a referral letter that went out to
22 Mr. Ivers?

23 A. Correct, what I was describing earlier where I get the
24 notice of electronic filing of this.

25 Q. And so the date of this letter is December 11th, 2017?

1 A. Correct.

2 Q. And it kind of goes through and says a little bit about
3 what the Pro Se Project is; is that correct?

4 A. Correct.

5 Q. And it also mentions your name in the letter that was
6 sent to Mr. Ivers, correct?

7 A. Yes. Correct.

8 Q. And then gives some contact information, I believe, on
9 the next page of the letter for how to get ahold of the Pro
10 Se Project?

11 A. Yes.

12 Q. Again, this letter was dated December 11th of 2017. Do
13 you know, did you get contacted by Mr. Ivers around this
14 time period?

15 A. I was contacted by Mr. Ivers. I don't recall the exact
16 date, but it was around this time period, yes.

17 Q. Okay. Sometime after December 11th?

18 A. Correct.

19 Q. Do you know how long after December 11th it was? And
20 perhaps you could think that you eventually connected him up
21 with some lawyers in the end of February; is that correct?

22 A. Correct.

23 Q. So how far before that do you think you began speaking
24 with Mr. Ivers?

25 A. I honestly don't recall.

1 Q. Sometime between December 11th and December 27th?

2 A. That would be fair.

3 Q. So he did contact you, correct?

4 A. Yes.

5 Q. And did you speak with him in person or by telephone?

6 A. By telephone.

7 Q. What did you discuss when you talked to him?

8 A. When I spoke with Mr. Ivers, I recall us talking about,
9 as I do with all pro se litigants, that the court had
10 referred the case to the Project, and that I had an
11 opportunity to review his complaint and the docket.

12 I typically explain how the Pro Se Project works,
13 which I'm assuming I did so here, making clear that there's
14 no civil right to a -- or constitutional right to an
15 attorney in a civil case, but the Project helps to at least
16 find a volunteer lawyer to consult with the litigant.

17 I recall Mr. Ivers informing me that he had been
18 involved in numerous lawsuits and he knew what he was doing,
19 but what he wanted me to do was to find him a lawyer to
20 approve his amended complaint, and so that led me to ask
21 Mr. Ivers about the prior lawsuits. He said they were for
22 various reasons.

23 So I remember as I'm talking to Mr. Ivers on the
24 phone, I -- when you're on the court's website, it's called
25 CM-ECF, you can do certain queries and look up cases or what

1 have you by name, and so I put in Mr. Ivers' name to do a
2 query and I found a prior lawsuit. And just glancing over
3 it while I'm on the phone, I said, Oh, I see you have a
4 prior lawsuit against the same defendant, but it looks like
5 it's for breach of contract. He said, That's totally
6 different. That's what I recall from the conversation,
7 other than saying, as I usually do, if I find an attorney,
8 I'll let you know and you two can meet and go from there.

9 Q. After you finished speaking with Mr. Ivers, did you do
10 some additional research into the prior case?

11 A. I did.

12 Q. And what, if anything, did you find out about it?

13 A. So in looking at the prior case, I went to the docket
14 and saw there was a complaint. I probably had that pulled
15 up when I was talking to Mr. Ivers. But I noticed -- what
16 struck me as odd is that the complaint in the prior case was
17 essentially the same as the complaint in the case that Judge
18 Schultz had referred to the Project.

19 Comparing the two, without having them side by
20 side, but just in looking back and forth, it looked like the
21 prior complaint was repackaged into another complaint and
22 instead of breach of contract, it was an ADA claim. So I
23 thought, well, that's interesting.

24 So in looking at the docket of the prior case, it
25 had gone to trial, and there was a bench trial in front of

1 Judge Wright. So I just quickly went to that and saw there
2 was a Findings of Fact, Conclusions of Law, and Order and I
3 read through Judge Wright's Order.

4 It was concerning to me and so I thought, well, he
5 said he has also been in other cases, and I don't recall
6 seeing any other ones on the federal system, so I went to
7 the state court system and saw there were numerous state
8 court filings.

9 I don't know if you want me to continue or if that
10 answers your question with respect to me looking at the
11 prior case. That's about what I did.

12 Q. Okay. Let's focus on what you looked at in terms of his
13 prior case in front of Judge Wright.

14 A. I focused on the complaint, the Findings of Fact, and
15 Conclusions of Law, and Order.

16 Q. And by reviewing the complaint, which I think you said
17 had essentially the same facts as the complaint of its
18 current lawsuit in front of Judge Schiltz?

19 A. That's my recollection, yes.

20 Q. And the fact that that complaint in front of Judge
21 Wright had ended in Findings of Fact, Conclusions of Law,
22 and Order against Mr. Ivers, did that give you some concern
23 about the viability of his new case?

24 A. Yes. I'd say that's fair.

25 Q. Okay. And so did you do anything in response to

1 figuring that out, comparing those two lawsuits?

2 A. So what I did was I summarized what I just described in
3 an email to Katie Haagenson -- I may be getting her last
4 name wrong -- but she is Magistrate Schultz's Judicial
5 Assistant. I essentially told Katie I just want to bring to
6 the Court's attention what I found and make sure Judge
7 Schultz still wants me to reach out to a volunteer lawyer on
8 his behalf.

9 Q. Did you know whether Magistrate Schultz was already
10 aware of the prior case in front of --

11 A. I did not know whether he was or wasn't.

12 Q. You thought that was something you should bring to his
13 attention?

14 A. Yes.

15 Q. And why was it that you were bringing it to Magistrate
16 Judge Schultz's attention?

17 A. Several things. At the time, Magistrate Judge Schultz
18 was a newer magistrate judge, so I wanted to make sure he
19 was aware of the prior lawsuits and still wanted me to make
20 a referral.

21 But also I'm the only person that does the Pro Se
22 Project, if you will, and so I feel an obligation to protect
23 the integrity of the Project, and so I wanted to make sure
24 the Court wanted me to use volunteer resources for Mr. Ivers
25 since he had already litigated essentially the same thing.

1 Q. And so did you hear back from Magistrate Judge Schultz
2 as to whether he wanted to continue the referral?

3 A. I did through Katie, his Judicial Assistant.

4 Q. And what did you hear back?

5 A. Magistrate Judge Schultz said, Sure, as long as the
6 volunteer attorney is aware of Judge Wright's prior order
7 and will advise Mr. Ivers to its effect.

8 Q. And so did you eventually find some volunteer lawyers to
9 work with Mr. Ivers as part of the Pro Se Project?

10 A. I did.

11 THE COURT: Ladies and gentlemen, we're going to
12 take a stretch break. You've been sitting over an hour.

13 (Stretch break.)

14 THE COURT: Mr. Rank, I apologize for
15 interrupting. She said that she found lawyers to talk with
16 Mr. Ivers.

17 MR. RANK: Thank you, Your Honor.

18 BY MR. RANK:

19 Q. Ms. Sanders, you've indicated that you found some
20 lawyers who might volunteer to do a consultation with
21 Mr. Ivers; is that correct?

22 A. Correct.

23 Q. And who were they?

24 A. Lora Friedemann and Anne -- and I may not get the name
25 right -- Rondoni Tavernier --

1 Q. I think it's close enough for our purposes.

2 A. -- from the Fredrikson & Byron Law Firm. My apologies.

3 Q. I believe it's Rondoni Tavernier.

4 A. Thank you.

5 Q. She'll let us know when she testifies.

6 So you located a couple of lawyers from the
7 Fredrikson & Byron firm; is that correct?

8 A. Correct.

9 Q. And are there steps involved in determining whether
10 someone is available or not to do a consultation?

11 A. Yes. What I typically do is think about who I will be
12 contacting on behalf of the pro se litigant. Then I send an
13 email to the lawyer and provide an overview of the case, the
14 parties; ask the lawyer if he or she will run a conflict
15 check and if no conflicts, consider consulting with the
16 pro se litigant. That's what I did in this case.

17 Q. Let's take this in steps.

18 You said you had located Ms. Rondoni Tavernier and
19 Ms. Friedemann; is that correct?

20 A. Correct.

21 Q. Had you ever worked with Ms. Rondoni Tavernier before?

22 A. No.

23 Q. Had you worked with Ms. Friedemann before?

24 A. Many times.

25 Q. And what was your experience working with

1 Ms. Friedemann?

2 A. So back when I was hired to be the coordinator of the
3 Project in 2010, Lora Friedemann worked with Judge Davis to
4 create the Project and hire me and so she's very familiar
5 with how the Project works.

6 Over the course of the years that I've been the
7 coordinator, Lora has taken many cases and she's done a
8 fabulous job of really being efficient, working the cases
9 and getting them resolved. And Lora has also presented at
10 panels that I have put on for volunteer lawyers, CLEs, about
11 client-management skills and how to effectively help
12 litigants and the court through the Project.

13 Q. So that's part of her work -- first of all, she
14 participated in the formation of the Pro Se Project?

15 A. Correct.

16 Q. And then has done several cases working with pro se
17 litigants?

18 A. Correct.

19 Q. Has taught at seminars on how to deal with pro se
20 litigants --

21 A. Correct.

22 Q. -- effectively?

23 A. Correct.

24 Q. So the next thing you said -- the other step I wanted to
25 ask you about, you said that you have to do conflicts

1 checks. What does that mean?

2 A. So I don't want to suggest I know for all purposes, but
3 typically what happens when a lawyer is reviewing a file to
4 take in a firm, they'll look to see if there's any conflicts
5 of interest, meaning have they represented the opposing
6 party before or the person. They just look to see if the
7 firm has any contact with the litigants to see if there's a
8 conflict of interest in them taking the case.

9 Q. Any firm relationship?

10 A. Thank you. That was the word I was trying to pull up.

11 Q. And then the last thing you mentioned was they would
12 have to do that before deciding whether to do a consult or
13 to consult with the person; is that correct?

14 A. Correct, because if there's a conflict, they are unable
15 to do it, and that happens.

16 Q. What does that mean, to consult?

17 A. So what we ask -- the goal of the Pro Se Project is that
18 the volunteer lawyer provide a meaningful consultation with
19 the pro se litigant. Most often it's in person, but if
20 people have challenges, if they have disabilities where
21 that's not going to happen or if they're located outside of
22 the Twin Cities area, they can certainly consult by phone or
23 Skype or whatever they come up with.

24 The consultation, what we ask is that the lawyers
25 candidly evaluate the case, give the litigant their candid

1 advice, tell them what to expect in their lawsuit, tell them
2 what they're up against, answer questions, what have you.

3 Q. Okay. And you did that in this case with respect to
4 Ms. Friedemann and Ms. Rondoni Tavernier?

5 A. Did what?

6 Q. At least reached out to them initially to establish at
7 least the start of a relationship?

8 A. Correct.

9 Q. Can you look at Exhibit 28, which would be in the folder
10 in front of you. In connection with this, did you send some
11 communication to Ms. Rondoni Tavernier?

12 A. Yes.

13 Q. And is that reflected in what's been marked for
14 identification as Government's Exhibit 28?

15 A. Correct.

16 Q. It is an email to Ms. Rondoni Tavernier; is that
17 correct?

18 A. Yes.

19 Q. From who?

20 A. From me.

21 Q. Dated?

22 A. February 21st, 2018.

23 Q. And are there some attachments to that email, as well?

24 A. Yes.

25 MR. RANK: I would offer 28.

1 MR. KELLEY: No objection, Your Honor.

2 THE COURT: Received.

3 BY MR. RANK:

4 Q. I will put 28 up on the screen. You can look at the
5 paper or the screen, whichever is better for you.

6 So I'm going to blow up the top and the first two
7 paragraphs. So it looks like the -- first of all, there are
8 some attachments that are reflected up at the top of the
9 email. Do you see that?

10 A. Yes.

11 Q. And what, generally speaking, were you attaching to this
12 email?

13 A. From looking at this, it looks like the first one may be
14 the complaint in the case against Magistrate Judge Schultz.
15 The amended complaint. It looks like those numbers are
16 close enough that it's probably the amended complaint in the
17 same case. It looks like another amended complaint. I'm
18 having trouble tracking here. Or maybe the first one isn't
19 a complaint. It's hard to tell from this.

20 Q. If I showed you a document with the actual print-outs,
21 might it refresh your recollection?

22 A. Hopefully so.

23 Q. I can clear those arrows, too.

24 Can I ask you, generally speaking, are the
25 attachments, are they documents related to both the current

1 case in front of Judge Schultz, as well as documents related
2 to the past case in front of Judge Wright?

3 A. Yes.

4 Q. And does it contain the complaint from the case in front
5 of Judge Wright, as well as the complaints for the case in
6 front of Judge Schultz?

7 A. It should, but bear with me. I'm getting there.

8 Q. Make sure you have accurate information.

9 A. I see the complaint from Judge Wright's case. Yes.

10 Q. So complaints from both cases?

11 A. Yes. I see the one in Judge Schultz's case, too. I
12 keep saying "Judge Schultz" because he's the magistrate that
13 referred it; although, it's Judge Schiltz that is the
14 Article III judge. I apologize if that's confusing.

15 Q. If you are saying "Judge Schultz" with the "U" even
16 though it's the case that is also Judge Schiltz with an "I"?

17 A. Correct.

18 Q. So did you also attach to that the Findings of Fact,
19 Conclusions of Law, and Order for judgment from Judge
20 Wright's case?

21 A. I did.

22 Q. Okay. I don't have any more questions at this time
23 about the attachments.

24 You indicate in this email that Magistrate Judge
25 Schultz has referred Mr. Ivers' case to the Pro Se Project,

1 and then you go on to say that the case is a bit unusual; is
2 that right?

3 A. Correct.

4 Q. And what was unusual about it?

5 A. Essentially what I described earlier with it being
6 similar in nature to a case that had previously been
7 adjudicated.

8 Q. In fact, I'll show this, this references the bottom, the
9 last section of the portion I've blown up. What does that
10 say?

11 A. "Mr. Ivers' current case came after he previously sued
12 CMFG for breach of K," which stands for contract.

13 Q. So that's lawyer-speak for contract?

14 A. At least mine, yes.

15 Q. And then if I go down starting at the next paragraph,
16 next two, you then go on to reference that prior case; is
17 that correct?

18 A. Correct.

19 Q. And also indicate in your communication to Ms. Rondoni
20 Tavernier what?

21 A. "In the prior case, the allegations were essentially the
22 same as those in the present case (instead of disability
23 discrimination, Mr. Ivers alleged breach of contract.)"

24 Q. You also have some information for Ms. Rondoni Tavernier
25 about sort of results of that case?

1 A. Correct.

2 Q. And what are you saying in the next sentence?

3 A. "Judge Wright presided over a bench trial, found
4 Mr. Ivers not credible, rescinded both life insurance
5 policies at issue, and entered judgment against Mr. Ivers."

6 Q. What does that reference, the judge found Mr. Ivers "not
7 credible"? What does that mean?

8 A. Without going back through the Findings of Fact and
9 Conclusion of law, I don't recall specifically what Judge
10 Wright stated, but she found in her order that Mr. Ivers was
11 not a credible witness.

12 Q. And then if we go on to the next paragraph, it is that
13 you learned about the prior case and you are sort of
14 advising Ms. Rondoni Tavernier about a subsequent
15 conversation or communication you had with Magistrate Judge
16 Schultz; is that correct?

17 A. Correct.

18 Q. What are you saying in that next paragraph?

19 A. Essentially what I described earlier, that I checked in
20 with the referring judge to make sure he wanted me to reach
21 out to a volunteer attorney and Judge Schultz confirmed that
22 he would.

23 And then that is -- what you just highlighted,
24 provided the lawyer is apprised of WMW's -- that's Judge
25 Wright, Wilhelmina M. Wright -- order and that the lawyer

1 advised Mr. Ivers as to its effect. I think I pasted from
2 what Katie sent me.

3 Q. What does that mean, advised the lawyer as to the effect
4 of that order?

5 A. What does it mean or what did I take it to mean?

6 Q. What did you take it to mean?

7 A. I took it to mean that a volunteer lawyer could consult
8 with Mr. Ivers and essentially help him understand the
9 significance of filing a lawsuit and having that finalized
10 and get the decision, and then filing another lawsuit that's
11 essentially the same with a slight tweak.

12 I haven't litigated in a while, but I'm recalling
13 it to be a res judicata-type thing that a lawyer could
14 explain, meaning you can't just keep bringing the same
15 lawsuit over and over.

16 Q. I'm going to take you to the next portion here. You
17 mentioned that you attached some documents. That's the
18 documents that you talked about earlier, documents both from
19 the prior case in front of Judge Wright, as well as the case
20 in front of Judge Schiltz; is that correct?

21 A. Correct. That's what I mean by documents from both
22 files, yes.

23 Q. Okay. And you also have in here sort of some additional
24 information. I'm going to highlight the second sentence.

25 Could you read that for the jury.

1 A. "As you will notice, Mr. Ivers is adamant that he is
2 entitled to the benefits from his friend's life insurance
3 policies and does not seem to understand, or accept, the
4 Court's prior ruling."

5 Q. And if I take you to, I think, the last portion here,
6 what are you saying there?

7 A. So I'm asking Anne to conduct a conflict check, and if
8 there's no conflicts, to consider consulting with Mr. Ivers
9 regarding this case in front of Schiltz and Schultz.

10 Q. You give the parties, which is Robert Ivers, and then
11 the insurance company to do the conflict check?

12 A. Correct. Correct.

13 Q. And this is if conflict check comes back okay, then to
14 consult with Mr. Ivers; is that correct?

15 A. Correct.

16 Q. And if we go to the next page of this exhibit, page 2 of
17 Exhibit 28 for the record, which I can't see unless I blow
18 it up, are you talking a little bit about the scope of what
19 the agreement is in this email?

20 A. The scope of what I'm asking her to do, yes.

21 Q. Okay. What is that?

22 A. To consult with Mr. Ivers. And because Anne -- I had
23 not worked with her before, I'm recalling she was a newer
24 lawyer at the time, just explain that she is not obligating
25 herself to represent him by agreeing to consult with him.

1 Q. Okay. Did you also after this get some information back
2 from Ms. Rondoni Tavernier and Ms. Friedemann?

3 A. Yes.

4 Q. What did you hear back?

5 A. I heard back that Anne and Lora would take the case --
6 or would agree to consult with Mr. Ivers, I should say.

7 Q. And, again, consultation doesn't mean representation?

8 A. Correct.

9 Q. Okay. And so did you also let Mr. Ivers know that you
10 had found volunteer lawyers willing to consult with him?

11 A. Yes.

12 Q. And did you speak with Mr. Ivers?

13 A. I did.

14 Q. And what, if anything, did you tell him?

15 A. That I found attorneys who had agreed to consult with
16 him and provided their names. I don't recall if I gave all
17 the contact information, a phone number. I don't remember
18 the extent of that.

19 I don't recall specifically having -- I don't
20 recall the exact words, but with every pro se litigant I
21 remind them that the lawyer has agreed to consult with them
22 and is not obligated to represent them.

23 Q. Do you also put that in writing typically?

24 A. Yes.

25 Q. Do you have Exhibit 29 in front of you?

1 A. Yes.

2 Q. Is Exhibit 29 a letter that you sent to Mr. Ivers about
3 securing some lawyers who were willing to speak with him?

4 A. Yes.

5 MR. RANK: I would offer Exhibit 29.

6 MR. KELLEY: No objection.

7 THE COURT: Received.

8 BY MR. RANK:

9 Q. I won't spend a lot of time on this letter. Does this
10 letter sort of summarize what you've already testified about
11 with respect to communications with Mr. Ivers?

12 A. Yes. This is the letter that followed the telephone
13 conversation. Yes.

14 Q. Okay. And just so we can see it, this is dated February
15 23rd, 2018?

16 A. Correct.

17 Q. And it's from you?

18 A. Yes.

19 Q. To Mr. Ivers?

20 A. Correct.

21 Q. It appears to also be sent to him at a residence in West
22 Fargo, North Dakota; is that correct?

23 A. Correct.

24 Q. I don't know if it's a residence, but an address in West
25 Fargo, North Dakota?

1 A. Right.

2 Q. Then you also have some additional information in this
3 letter. Is this consistent with what you would have advised
4 him on the telephone call with him?

5 A. Yes.

6 Q. What are you saying with regard to the scope of the
7 consultation?

8 A. Essentially what I just stated, that the lawyers have
9 agreed to consult with you, but they are not obligated to
10 represent you.

11 Q. Okay. Did you also provide Ms. Rondoni Tavernier and
12 Ms. Friedemann with a way to contact Mr. Ivers?

13 A. Yes.

14 Q. And did you give them a telephone number where to reach
15 him?

16 A. Yes.

17 Q. Do you remember how you did it?

18 A. Yes. And I remember in this case providing the
19 telephone number because Mr. Ivers did not have email. And
20 I emailed Anne and Lora and provided his full contact
21 information that I had.

22 Q. If I asked you, you couldn't tell me off the top of your
23 head what that telephone number was?

24 A. I could not.

25 Q. How about if I showed you a document? Would that

1 refresh your recollection?

2 A. Okay.

3 Q. This is an email that you sent to Ms. Friedemann and
4 Ms. Rondoni Tavernier?

5 A. Yes.

6 Q. Does it contain a telephone number in it for Mr. Ivers?

7 A. Yes. And just bear with me. Yes. It's the same number
8 on the docket, the court docket. Yes.

9 Q. Can you actually for the record tell us what that phone
10 number was.

11 A. 952-529-8798.

12 Q. Okay. And so did you have some further communications
13 with Ms. Friedemann and Ms. Rondoni Tavernier before they
14 contacted Mr. Ivers?

15 A. Other than this email you just showed me?

16 Q. Yes.

17 A. I'm not recalling any.

18 Q. How about another email communication regarding --
19 well --

20 MR. RANK: May I approach, Your Honor?

21 THE COURT: You may.

22 BY MR. RANK:

23 Q. If I showed you another email communication, might it
24 refresh your recollection as to other communications?

25 A. My apologies. I was thinking after the email you showed

1 me with the phone number. Yes, this refreshes my
2 recollection. Thank you. The answer is yes.

3 Q. And what additional communication did you have with
4 them?

5 A. So after the February 21st, 2018 email asking Anne to do
6 the conflict check, Anne responds on February 23rd, 2018 and
7 says, Yes, Lora and I are happy to consult. February 23rd,
8 same day, I say, "Thank you. I will give Mr. Ivers a call
9 and let him know." I attach additional filings that I
10 didn't previously provide.

11 Q. Let me stop you because that's not --

12 A. Oh, I'm sorry.

13 Q. -- in evidence. Actually, if you could take a look at
14 the second page of that email where it starts with "Lora."
15 Did you give Ms. Friedemann some -- actually, it may be in
16 the first email about Mr. Ivers being --

17 A. Oh, it's in this email. I'm sorry. The jury doesn't
18 know the February 23rd one later.

19 Q. Okay. So I'm sorry for that series of confusing
20 questions. I apologize.

21 If looking at that email refreshes your
22 recollection -- you don't have to read from it, but do you
23 remember giving Ms. Friedemann some additional information
24 about Mr. Ivers' case?

25 A. I do.

1 Q. And what was that?

2 A. I in my email said, Lora, you probably recall when you
3 have presented a panel for the Pro Se Project, you helped
4 young or newer lawyers think about delivering potential bad
5 news to a client in stages. You possibly may want to
6 consider doing that here.

7 Q. Did you think that, based on your review of the case,
8 whatever information that Ms. Rondoni Tavernier and
9 Ms. Friedemann were going to give to Mr. Ivers it might be
10 potentially bad news?

11 A. Could be.

12 Q. All right. So you connect up the lawyers with
13 Mr. Ivers. Do you at some point in time hear back from
14 either one of the lawyers at a later time?

15 A. I do.

16 Q. How does that go?

17 A. Lora Friedemann called me.

18 Q. And do you recall approximately when that was?

19 A. I want to say it was toward the end of February 2018.

20 Q. Could it have been February 28th?

21 A. Could've been. Sure.

22 Q. And what was the substance of that call?

23 A. Lora indicated she had bad news. She was concerned,
24 didn't really know what to do, but wanted to tell me so
25 hopefully I could help her.

1 Q. And what was the bad news?

2 A. She said she and Anne consulted with Mr. Ivers and that
3 he made a threat against Judge Wright.

4 Q. Did she say anything else about why she was telling you?

5 A. Other than she didn't know what to do with this
6 information and figured I would. She just said something to
7 the effect that if anything were to happen and she didn't
8 tell someone, she'd feel horrible.

9 Q. Anything happen to whom?

10 A. Judge Wright.

11 Q. She said it was a threat and she was telling you because
12 she was worried something might happen?

13 A. That was my understanding.

14 Q. What did you do with that information?

15 A. My mind spun, and I ended up calling District Judge
16 Michael Davis.

17 Q. Why did you call District Judge Michael Davis?

18 A. So he was the Chief Judge when the court and the FBA
19 created the Project. And during the tenure of his being
20 Chief Judge, he's the one that I reported to essentially, if
21 you will. So we worked together closely on the Project.

22 District Judge Tunheim is now the Chief Judge. I
23 thought about calling him. I thought about calling
24 Magistrate Judge Noel, who I work with, but I essentially
25 decided I was most comfortable with this awkward situation

1 talking to Judge Davis whom I knew better.

2 Q. Okay. And had you ever had to report a threat from
3 anyone from the Pro Se Project before?

4 MR. KELLEY: Objection, Your Honor, relevance.

5 THE COURT: Overruled.

6 THE WITNESS: No.

7 BY MR. RANK:

8 Q. Had you ever received a threat to a judge before?

9 A. No.

10 Q. And so how long after you got the call from
11 Ms. Friedemann did you reach out to Judge Davis?

12 A. Five minutes at the most, just to think through who am I
13 calling. Probably less than that.

14 Q. And were you able to reach him?

15 A. No. I spoke with Gerri Rishel, his Judicial Assistant.
16 I'm not recalling why Judge Davis wasn't immediately
17 available. And she assured me she would have him call me as
18 soon as he could.

19 Q. Have you had a lot of communications with Gerri Rishel?

20 A. Oh, yes.

21 Q. Did you convey to her in some way the immediacy of your
22 request to speak with Judge Davis?

23 A. I recall telling Gerri, because I do know her and I've
24 worked with her, that I had received a threat against Judge
25 Wright and needed to speak with Judge Davis as soon as

1 possible.

2 Q. Did you get a call back from Judge Davis relatively
3 quickly?

4 A. Within minutes, yes.

5 Q. All right. What happened after that?

6 A. So Judge Davis asked me the exact threat, and I informed
7 him that I did not ask Lora for that. And so Judge Davis
8 had Gerri come into his chambers, Gerri Rishel, and we tried
9 to conference call Lora in, and Lora was not available. So
10 Judge Davis instructed me to reach Lora, get the exact
11 threat, and call him back.

12 Q. So in your initial call with Ms. Friedemann she just
13 said there's a threat to Judge Wright and god forbid if
14 anything happens to her?

15 A. Correct. And I recall me not specifically asking
16 because I had no idea if this was attorney-client privilege.
17 It really threw me off.

18 Q. I mean, how were you reacting to that statement
19 emotionally?

20 A. Judge Wright and I just traveled to Atlanta together for
21 an FBA national conference and I just --

22 MR. KELLEY: Your Honor, objection, nonresponsive.

23 THE COURT: Sustained.

24 MR. KELLEY: Move to strike.

25 THE COURT: Sustained. You should ignore the

1 answer. The question that's posed Ms. Sanders is: "How
2 were you reacting to the statement emotionally?"

3 MR. KELLEY: Your Honor, objection to that
4 question.

5 THE COURT: Right. I know. I sustained it. But
6 I didn't think it was responsive, is the reason I sustained
7 it. I think the question is not objectionable. I think not
8 being responsive is objectionable. But am I missing
9 something here, Counsel? Help me out.

10 MR. KELLEY: No, Your Honor.

11 THE COURT: Okay.

12 THE WITNESS: I'm tracking.

13 BY MR. RANK:

14 Q. So you can answer the question.

15 A. Frazzled. I'm not a very emotional person, but it threw
16 me for a loop.

17 Q. Did you have some personal connection with Judge Wright?

18 A. Yes.

19 Q. Did that enhance your reaction?

20 A. Yes.

21 Q. Okay. After you spoke to Judge Davis the first time,
22 you tried to conference in Ms. Friedemann, you were unable
23 to do so, he asked you to reach out to her; is that correct?

24 A. Correct.

25 Q. Were you able to get ahold of Ms. Friedemann?

1 A. Yes.

2 Q. And what did you do when you got ahold of her?

3 A. Asked her for the exact quote -- or threat.

4 Q. What did she tell you?

5 A. She said --

6 MR. KELLEY: Your Honor, objection, hearsay.

7 THE COURT: Sustained.

8 BY MR. RANK:

9 Q. Ms. Sanders, did you take what she told you and pass it
10 along to Judge Davis?

11 A. What Lora told me, yes.

12 MR. RANK: So I'm asking, Your Honor, for what she
13 did with that information.

14 THE COURT: You may.

15 MR. KELLEY: Your Honor, objection, hearsay.

16 MR. SCOTT: It's still hearsay.

17 THE COURT: I don't think it's being offered for
18 the truth, is it?

19 MR. RANK: No.

20 THE COURT: You may answer.

21 THE WITNESS: Thank you.

22 I told Judge Davis that Lora informed me Mr. Ivers
23 said, "You don't know the 50 different ways I've planned to
24 kill her."

25 BY MR. RANK:

1 Q. After that -- how did Judge Davis react to that?

2 A. Judge Davis told me -- I had indicated to him that this
3 -- that Mr. Ivers had been referred to the Project in the
4 case before Schultz and Schiltz. So Judge Davis informed me
5 that he would inform Schiltz and Schultz, he would inform
6 the U.S. marshals, and he instructed me to inform Judge
7 Wright.

8 Q. Did you have a reaction to him telling you to instruct
9 Judge Wright?

10 A. Yes.

11 Q. What was that?

12 A. I recall saying, "Your Honor, with all due respect, why
13 me?"

14 Q. What did he say to that?

15 A. Because I heard the threat directly from Lora.

16 Q. Did you, in fact, contact Judge Wright?

17 A. I did. I called her chambers right away.

18 Q. Did you reach her right away?

19 A. No. I spoke with Terianne Bender, her Judicial
20 Assistant.

21 Q. And were you able to eventually reach Judge Wright?

22 A. Yes. Judge Wright wasn't available right when I called,
23 but she called me back relatively quickly, and we spoke by
24 phone.

25 Q. Did you advise her of what you had been told by

1 Ms. Friedemann?

2 A. Yes.

3 Q. How did she react?

4 A. She wasn't surprised, which surprised me.

5 Q. Did she indicate why she wasn't surprised?

6 MR. KELLEY: Your Honor, objection, relevance.

7 THE COURT: Sustained.

8 MR. KELLEY: Hearsay.

9 BY MR. RANK:

10 Q. Did she appear to have knowledge of other threats to
11 other judges?

12 MR. KELLEY: Your Honor, objection.

13 THE COURT: Sustained.

14 BY MR. RANK:

15 Q. Other than communicating the threats to Judge Wright,
16 did you do anything else with that information, Ms. Sanders?

17 A. All I recall doing is informing Judge Davis that I had
18 communicated with Judge Wright.

19 Q. Were you also eventually interviewed by someone from the
20 Marshal Service?

21 A. Oh, yes.

22 MR. RANK: I have no further questions at this
23 time, Ms. Sanders. Thank you, Ma'am.

24 THE COURT: Mr. Kelley, would now be a good time
25 to take our afternoon recess or not?

1 MR. KELLEY: Yes, Your Honor, it would.

2 THE COURT: We'll be in recess until 3:20.

3 THE COURTROOM DEPUTY: All rise.

4 (A brief recess was taken.)

5 THE COURTROOM DEPUTY: All rise for the jury.

6 THE COURT: Please be seated.

7 Mr. Kelley.

8 MR. KELLEY: Your Honor.

9

10 **CROSS-EXAMINATION**

11 **BY MR. KELLEY:**

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. So we were just talking about February 28th. A lot of
15 stuff had happened.

16 A. Okay.

17 Q. So February 28th you receive a call from Ms. Friedemann?

18 A. Correct.

19 Q. Do you remember what time of the day that was?

20 A. It was before lunch because I recall when Judge Davis
21 and Gerri and I were trying to conference call Lora in, it
22 was over the lunch hour.

23 Q. So before lunch?

24 A. Correct.

25 Q. And she says to you simply a threat was made against

1 Judge Wright, something to the effect of --

2 A. Something to that effect, yes. Correct.

3 Q. She does not use any precise words?

4 A. Other than the precision of saying what she said, yes.

5 Q. A threat was made?

6 A. Correct.

7 Q. So then the next thing you do is try to call Judge
8 Davis' chambers?

9 A. I do call his chambers, yes.

10 Q. And you speak to his Judicial Assistant, not Judge
11 Davis, correct?

12 A. Gerri Rishel, correct.

13 Q. After that, Judge Davis called you back?

14 A. Correct.

15 Q. You try to call Friedemann, no luck?

16 A. Correct. On that conference call, yes.

17 Q. Then you call back Ms. Friedemann, talk to her, correct?

18 A. Correct.

19 Q. And she tells you some words that Mr. Ivers said,
20 correct?

21 A. Yes. Correct.

22 Q. Then you report those words to Judge Davis?

23 A. Correct.

24 Q. All right. Judge Davis then reports something to the
25 marshals, correct?

1 A. That's my understanding, yes.

2 Q. You understood that Judge Davis was going to talk to the
3 marshals, he was going to handle that?

4 A. Yes.

5 Q. Okay. And he said, Ms. Sanders, you tell Judge Wright?

6 A. Yes.

7 Q. Judge Davis tells the marshals? You tell Judge Wright?

8 A. And he indicated he would tell --

9 Q. That was a -- just those two?

10 A. As long as you understand there's a third, yes.

11 Q. Okay. You have no idea what Judge Davis told the
12 marshals, do you?

13 A. No. Of course not.

14 Q. Okay. I want to go back to the Pro Se Project
15 generally.

16 A. Okay.

17 Q. That was created, what, 2011? 2012?

18 A. Originally created May of 2009.

19 Q. 2009?

20 A. Yes.

21 Q. And the people who helped create it were Judge Davis and
22 Lora Friedemann, correct?

23 A. And some others, yes.

24 Q. Those were the two that kind of spearheaded it, right?

25 A. I don't feel comfortable saying Lora spearheaded it, but

1 she worked with Judge Davis.

2 Q. They were both involved with it?

3 A. Yes. Correct.

4 Q. And I'm not sure I caught when you started working for
5 the Pro Se Project.

6 A. I didn't say.

7 Q. When did you start working for the Pro Se Project?

8 A. June of 2010.

9 Q. So, roughly, a year, six months after it started?

10 A. Yes, a year. May 2009 and then I come in the following
11 June. Yes.

12 Q. So Pro Se Project is created around 2009, 2010, and you
13 take that job. And you have held that job ever since?

14 A. Yes. And it was created May of 2009. Yes, and I've
15 been the coordinator since June of 2010.

16 Q. Who hired you?

17 A. The FBA had a hiring panel or committee. Judge Davis
18 made the ultimate decision.

19 Q. Lora Friedemann on that panel?

20 A. She was not.

21 Q. Now I want to discuss the civil lawsuit. So you first
22 come to understand that there is this civil lawsuit that is
23 in front of Magistrate Schultz with a U, correct? That's
24 how you come to come in contact with Mr. Ivers' case,
25 correct?

1 A. Not from the case being in front of him, but from the
2 referral from Magistrate Judge Schultz, yes.

3 Q. That is the first case you're dealing with with
4 Mr. Ivers, is the second civil lawsuit?

5 A. Correct.

6 Q. Then you do some internet research and figure out there
7 was a prior civil lawsuit?

8 A. Correct.

9 Q. And that was in front of Judge Wright?

10 A. Yes.

11 Q. And you've testified that these two cases were basically
12 the same, same set of facts and circumstances?

13 A. Essentially, yes.

14 Q. And you said a term, res judicata. Do you remember
15 that?

16 A. Yes, I did.

17 Q. Okay. So you said you're not currently licensed?

18 A. Litigating.

19 Q. Litigating.

20 A. It's been awhile since I've thought about res judicata.

21 Q. Okay. So res judicata essentially means what?

22 A. Precludes you from bringing the same lawsuit twice.

23 Q. And you said that one of the things you require of
24 volunteers for the Pro Se Project is that they have a
25 meaningful discussion about whatever case you refer to them?

1 A. That's what I ask them to do in the consult, yes.

2 Q. So here you referred Mr. Ivers' case to Ms. Rondoni
3 Tavernier and Ms. Friedemann, correct?

4 A. I didn't refer it to them. I just want to make sure
5 we're clear. I asked them if they would accept the referral
6 to consult with him. So maybe we're saying the same thing.

7 Q. Sure. So the referral actually came from the
8 magistrate?

9 A. Yes.

10 Q. Goes through you?

11 A. Yes.

12 Q. Goes to Rondoni Tavernier and Friedemann? And they
13 accept?

14 A. Correct.

15 Q. Okay. So the way you understood Mr. Ivers' case was it
16 was going to be dismissed likely because it was the same as
17 the first case?

18 A. No, I didn't make any assumptions on the disposition. I
19 just found it odd that it was essentially the same case with
20 a different theory.

21 Q. Okay. So if Ms. Rondoni Tavernier and Ms. Friedemann
22 are going to have a meaningful conversation about the second
23 case, the second civil lawsuit --

24 A. Correct.

25 Q. -- if they're going to talk about res judicata, that

1 would necessarily include a discussion of the first civil
2 lawsuit, right, or most likely would?

3 A. And so I guess I'm hung up. I don't know if they're
4 talking about res judicata or not.

5 Q. Okay. But the cases are based on the same set of facts?

6 A. From what I could tell, yes.

7 Q. Okay. And res judicata is essentially you can't bring
8 the second case -- or the same case twice, right, more than
9 once?

10 A. Is my understanding, yes.

11 Q. So likely that Ms. Rondoni Tavernier and Ms. Friedemann
12 were going to discuss that with Mr. Ivers?

13 A. "That" meaning the prior case, yes. Res judicata, I
14 have no idea.

15 Q. Very likely they're going to discuss the first lawsuit?

16 A. I would hope so.

17 Q. Okay. You would hope so. Okay.

18 You said something interesting when you were
19 talking about the duties of Pro Se Project volunteers.
20 Earlier you testified that volunteers don't necessarily have
21 to represent the clients that are referred to them,
22 something to that effect? Do you remember that?

23 A. I guess I'm hung up on "clients." The litigants,
24 correct. They do not have to represent the litigants.

25 Q. Are you familiar with the term prospective client?

1 A. Yes.

2 Q. Okay. So if somebody has a consultation with an
3 attorney, that person is a prospective client, correct?

4 A. Sure. Sure.

5 Q. So I just wanted to clarify this point so the jury
6 understood, is that Mr. Ivers would have been treated as a
7 prospective client during his consultation with Ms. Rondoni
8 Tavernier and Ms. Friedemann, correct?

9 A. That's fair. Yes.

10 Q. And as a prospective client, he would be owed the exact
11 same duties of confidentiality let's say?

12 A. I would hope so.

13 Q. Right. That a normal client, you know, somebody that is
14 a paying client --

15 A. Sure.

16 Q. -- comes? So Ms. Rondoni Tavernier and Ms. Friedemann
17 owed Mr. Ivers the duty of confidentiality?

18 A. I would hope so. I mean, yes, from my perspective I
19 would agree with that.

20 Q. So that means during the consultation, there's a
21 presumption that the attorneys will not reveal anything
22 that's said during that conversation, correct?

23 A. I'd hope so.

24 Q. That is the duty of confidentiality essentially, right?

25 A. Yes. Right.

1 Q. Rule 1.6 of the Minnesota Rules of Professional Conduct?

2 A. I will take your word for it.

3 Q. Okay. Would it refresh your --

4 A. Sure.

5 Q. Okay. I'm showing you Rule 1.6, Minnesota Rules of
6 Professional Conduct. Take a look at 1.6(a), subparagraph
7 a.

8 A. Yes. I have it here.

9 Q. Okay. And that says, in part, a lawyer shall not
10 knowingly reveal information relating to the representation
11 of a client, correct?

12 A. That's what it says, yes. Correct.

13 Q. That is generally the duty of confidentiality?

14 A. Sure. Yes.

15 Q. Just to be clear then, there was a presumption that
16 whatever Mr. Ivers told Ms. Rondoni Tavernier and Friedemann
17 on this phone call, the consultation, would be presumed
18 confidential?

19 A. And I'm smiling because normally I would say yes, but in
20 this circumstance that didn't play out.

21 Q. But it would have normally attached to any conversation
22 an attorney has with a client, correct?

23 A. I don't think it attaches to any.

24 Q. Would it attach to a confidential communication, so a
25 phone call where it's just an attorney and a client?

1 A. I think we're getting hung up on the substance of that
2 communication.

3 Q. It's a yes or no question. If somebody calls their
4 attorney on the phone and it's just the two of them, is that
5 conversation confidential?

6 A. I don't have a yes or no answer for that. Would you
7 like me to answer?

8 Q. No. We'll leave it at that.

9 All right. I also want to talk about timing here.
10 So you received this referral from Magistrate Schultz
11 mid-December?

12 A. I believe that's the day of that letter we looked at,
13 yes. December 11th, I believe.

14 Q. That sounds right. So December 11th you receive a
15 referral from Magistrate Schultz?

16 A. Correct.

17 Q. And on that it said that Mr. Ivers had 60 days to -- 30
18 --

19 A. It was 30.

20 Q. -- 30 days to file an amended complaint?

21 A. So the referral letter did not say that, the order did.
22 I believe that was December 7th, if I'm recalling from the
23 papers we just looked at. That one said 30 days from
24 December 7th.

25 Q. Okay. So he had 30 days to file an amended complaint?

1 A. Correct.

2 Q. Otherwise, the case would be dismissed?

3 A. That's my understanding.

4 Q. You didn't refer -- so you get this referral to the Pro
5 Se Project mid-December. You don't send that to Ms. Rondoni
6 Tavernier and Ms. Friedemann until mid -- into February?

7 A. I believe the emails indicate that. I believe it was --
8 but if you look at the docket, Mr. Ivers had requested and
9 received --

10 Q. Go ahead, finish.

11 A. -- he asked for an extension of time to file his amended
12 complaint. So we weren't operating under that 30 days from
13 December 7th deadline anymore.

14 Q. And that was 60 days?

15 A. I think so. It put it out to March, I want to say, from
16 what we just looked at.

17 Q. March 3rd? Does that sound correct?

18 A. And Mr. Ivers had filed his amended complaint.

19 Q. Okay. But you didn't actually refer -- or you didn't
20 actually send the pro se referral to Ms. Rondoni Tavernier
21 and Ms. Friedemann until end of February, right?

22 A. If that's what the emails indicate, then yes.

23 Q. So you testified when the government was talking that
24 you heard Ms. Friedemann say the word "planned," passive?

25 Or did you say "plan," present tense?

1 A. I don't know which one I said to tell you the truth. We
2 can go back and look at the transcript.

3 Q. That's not what I'm asking. You can't remember what you
4 said ten minutes ago?

5 A. If I said it in present tense or past tense, I'm sorry,
6 I don't.

7 Q. Okay. So you don't remember what you said now.

8 Do you remember sitting down for an interview with
9 Deputy Wooton sometime middle of May?

10 A. We did not sit down together, but I spoke with him.

11 Q. So it was a phone call?

12 A. Correct.

13 Q. With Deputy Wooton?

14 A. Yes.

15 Q. Do you remember what you said to him?

16 A. In general, yes.

17 Q. Do you remember specifically the words that you said to
18 him regarding this phone call with Ms. Friedemann,
19 Ms. Rondoni Tavernier, and Mr. Ivers?

20 A. If you're asking me for the threat that I told him, I
21 remember telling him that Ms. Friedemann or Lora
22 communicated to me that Mr. Ivers said, "You don't know the
23 50 ways I've planned to kill her." Planned, plan, I'm sorry
24 if I'm not enunciating my words correctly.

25 Q. Is it plan or planned?

1 A. I recall "planned."

2 Q. With "ed"?

3 A. That's what I recall. Now, whether that's correct or
4 not, I'm sorry, I don't know. Could've been plan.

5 Q. So it could've been present tense?

6 A. It could've been.

7 Q. Okay. So you can't remember what you told Deputy Wooton
8 exactly? Could be plan? Could be planned?

9 A. Oh, with the verb tense you're correct, yes.

10 Q. Okay. And you can't remember what you said 25 minutes
11 ago because the verb tenses were not that fresh in your
12 memory or it's not that important to you?

13 A. I wouldn't say it's not important. I don't always
14 enunciate my words the way some people do. So whether I
15 said planned or plan I don't recall. The transcript will
16 tell us, if you'd like to see exactly what I said.

17 Q. Thank you.

18 A. Okay.

19 Q. But what I'm hearing you say is you had this phone call
20 with Deputy Wooton May 15th; does that sound right?

21 A. I don't recall the date.

22 Q. You had this phone call with Deputy Wooton and now you
23 cannot remember whether you said the word plan, present
24 tense, or planned, past tense?

25 A. I have already answered that. Correct.

1 Q. The Judge will let you know if you don't have to answer
2 a question. But that is correct?

3 A. Yes.

4 Q. Could be plan or it could be planned?

5 MR. RANK: Objection, asked and answered.

6 THE WITNESS: Yes.

7 THE COURT: Sustained. It's also argumentative.

8 MR. KELLEY: One second, Your Honor.

9 (A brief discussion was held off the record.)

10 BY MR. KELLEY:

11 Q. Last question here, I hope.

12 When you got this phone call from Ms. Friedemann,
13 you said it just made you feel frazzled, right?

14 A. Yes.

15 Q. So whatever Mr. Ivers said, it just frazzled you?

16 A. What Lora told me that he said frazzled me, yes.

17 Q. Okay. But she didn't give you his words initially,
18 right?

19 A. Correct.

20 Q. She just said that a threat had been made against Judge
21 Wright?

22 A. Correct.

23 Q. And then you called her back, got those words?

24 A. Correct.

25 Q. Passed it on to Judge Davis?

1 A. Yes.

2 Q. But you have no idea what Judge Davis told the deputies?

3 A. Correct.

4 Q. And you don't remember what you said to Deputy Wooton in
5 May?

6 MR. RANK: Argumentative, asked and answered.

7 THE COURT: Sustained.

8 MR. KELLEY: No further questions.

9 (Computer sound.)

10 THE WITNESS: Did I do that?

11 MR. RANK: I think it was the unplugging of this.

12 May I approach, Your Honor?

13 THE COURT: You may.

14

15 **REDIRECT EXAMINATION**

16 **BY MR. RANK:**

17 Q. Ms. Sanders, Mr. Kelley asked you some questions about
18 Minnesota Rule of Professional Conduct 1.6. Do you recall
19 those questions?

20 A. Yes.

21 Q. And he asked you about the duty of confidentiality,
22 dealing with people that attorneys are speaking to. Do you
23 remember those?

24 A. Yes.

25 Q. There are exceptions to the duty of confidentiality,

1 correct?

2 A. Hence why I couldn't give a yes or no answer.

3 Q. You were trying to answer that. Let me ask you about
4 one of the exceptions. Can you look at 1.6, subparagraph 6.

5 A. Are we talking 1.6(b)(6)?

6 Q. (B)(6), I believe. I had to look it up on my phone.

7 A. Do we need to share?

8 Q. Let me make sure we're talking about the same thing. It
9 is this one right here. Yeah. 1.6(b)(6). This is an
10 exception to the rule of confidentiality; is that correct?

11 A. Well, (b) says a lawyer may reveal information relating
12 to their representation of a client if, and we go down to 6,
13 the lawyer reasonably believes the disclosure is necessary
14 to prevent reasonably certain death or substantial bodily
15 harm.

16 Q. Thank you, Ms. Sanders.

17 MR. RANK: I have no further questions.

18 THE COURT: Any brief cross, Mr. Kelley?

19 MR. KELLEY: No, Your Honor. Thank you.

20 THE COURT: All right. You may be excused.

21 THE WITNESS: Thank you, Your Honor.

22 MR. RANK: The government calls Lora Friedemann,
23 Your Honor.

24 THE COURT: All right. Ms. Friedemann, would you
25 please stand and look at the ladies and gentlemen of the

1 jury and raise your right hand to be sworn, please.

2 (Witness administered oath by the Court.)

3 THE COURT: Please be seated.

4 MR. RANK: May I proceed, Your Honor?

5 THE COURT: You may.

6 MR. RANK: Thank you.

7

8 **LORA FRIEDEMANN**

9

DIRECT EXAMINATION

10 **BY MR. RANK:**

11 Q. Good afternoon, Ms. Friedemann.

12 A. Good afternoon.

13 Q. Ma'am, could you for the court reporter state your full
14 name, spelling your last name for the record.

15 A. Yes. My name is Lora Friedemann. First name is
16 L-O-R-A. Last name is F-R-I-E-D-E-M-A-N-N.

17 Q. Ms. Friedemann, what do you do for a living?

18 A. I'm an attorney.

19 Q. And where do you work?

20 A. I work at Fredrikson & Byron, which is a law firm
21 primarily based in Minneapolis here.

22 Q. Do you have a specialty in the law?

23 A. I do. I'm a litigation attorney, so I represent
24 companies in lawsuits generally involving trademarks,
25 copyrights, and patents.

1 Q. How long have you been a lawyer?

2 A. Twenty-three years.

3 Q. Do you have regular interactions with clients and
4 prospective clients in your legal practice?

5 A. I do.

6 Q. And is that true over that full 23-year period?

7 A. It is.

8 Q. Do you also do what's known as pro bono work?

9 A. Yes.

10 Q. What is pro bono work?

11 A. Well, it's when we represent somebody free of charge or
12 nearly free of charge.

13 Q. And over that 23-year period, approximately how many
14 hours of pro bono work have you done during that time?

15 A. Well, my goal for myself is 50 hours a year. Sometimes
16 I've exceeded it. Sometimes I haven't made it. But it's
17 over 1,000 hours for sure.

18 THE COURT: Are you hearing the witness okay or
19 does she need to pull the microphone closer? Okay. Thank
20 you. Excuse me, Counsel. Okay.

21 BY MR. RANK:

22 Q. So as part of your pro bono work, have you also
23 participated in the Federal Bar Association's pro bono
24 project?

25 A. Yes, I have.

1 Q. And the Court just a moment ago heard from Tiffany
2 Sanders. Is she the coordinator of the pro bono project?

3 A. She is.

4 Q. Did you have some role in the formation of the Pro Se
5 Project?

6 A. Yes, I did. I had the privilege of serving as president
7 of our local chapter of the Federal Bar Association. And
8 the project was an effort between the court and the local
9 Federal Bar Association. So I was involved during the year
10 that I served as president.

11 Q. So have you then also participated in a number of cases
12 as part of the Pro Se Project?

13 A. I have. Having been part of starting the project, I've
14 continued to volunteer.

15 Q. Why might it be helpful to provide assistance to pro se
16 parties appearing in federal court?

17 A. Well, there are a number of reasons. The most obvious
18 one is it's pretty hard to represent yourself in federal
19 court if you're not an attorney. So if you're in that
20 circumstance, having a lawyer willing to help you, it means
21 everything.

22 It's also very helpful to the Court because
23 parties need to follow the rules, and if you have someone
24 who doesn't know the rules, that's tough.

25 And it's actually also helpful to the other side

1 many times when someone can help explain things and help
2 facilitate a resolution.

3 Q. And so was this project an idea to sort of increase
4 access to the justice system?

5 A. Absolutely.

6 Q. Can you talk, generally speaking, about, at least in
7 your experience, taking cases as part of the Pro Se Project
8 the steps involved in getting involved and working with
9 somebody as part of the project, if that question made
10 sense.

11 A. I think so. And tell me if I'm starting too soon. The
12 first step would be a conflict check. And then we can
13 either do a consultation or full representation.

14 Q. Okay. And so conflicts check is -- we've heard some
15 testimony about that. That's making sure that the firm
16 doesn't have -- your law firm doesn't have any conflicts
17 with the parties involved in the case?

18 A. Correct.

19 Q. And then you said if you pass or get through the
20 conflicts check, then there's a consultation phase. What is
21 the consultation phase?

22 A. The consultation phase you have not actually appeared in
23 the action to represent the party in the case, but you're
24 meeting with that person and discussing the case with them,
25 and it may or may not lead to actual representation of that

1 person in the lawsuit.

2 Q. So at least in terms of that consultation, there's no --
3 you haven't agreed to represent that person at the
4 consultation phase?

5 A. Correct.

6 Q. It may lead to that?

7 A. It may.

8 Q. And in your experience of working on cases with the Pro
9 Se Project, have your cases sometimes led to representation?

10 A. Yes, all of them except for Mr. Ivers.

11 Q. Okay. You anticipated my next question, which is did
12 you have some communications with the defendant in this
13 case, Robert Ivers, as part of the Pro Se Project?

14 A. I did.

15 Q. How was it that that came about?

16 A. It was a referral through the Pro Se Project that we
17 have been discussing. Ms. Sanders contacted my colleague,
18 Ann Rondoni Tavernier, with the opportunity to consult with
19 Mr. Ivers. We performed our conflicts check. The conflicts
20 were clear, and Annie and I agreed to do the consult
21 together.

22 Q. "Annie" is Ms. Rondoni Tavernier?

23 A. Yes.

24 Q. And you said it was referred to her. Is that correct?

25 Maybe I'm using the wrong term. Did the Pro Se Project

1 reach out to Ms. Rondoni Tavernier to see if she would
2 accept the consultation with Mr. Ivers?

3 A. Yes. That is exactly how it happened, and then she got
4 me involved. Ms. Rondoni Tavernier is a fairly new lawyer,
5 and in those circumstances we often want to have a more
6 senior person involved. Whenever you do something for the
7 first time, right, you want somebody more senior with you.

8 Q. And you had done a number of other Pro Se Project cases,
9 so did you have some experience with Ms. Rondoni Tavernier
10 before that time?

11 A. I did. We worked together frequently.

12 Q. Okay. So you said the conflicts check was run. You
13 agreed to communicate with Mr. Ivers. What happened after
14 that?

15 A. It was Ms. Rondoni Tavernier who set up a call with
16 Mr. Ivers. It was scheduled for a certain day, I think at
17 11:00. And at that appointed time, I went to her office and
18 we called Mr. Ivers.

19 Q. Prior to the call, had you done any research regarding
20 Mr. Ivers' case?

21 A. Yes, I did. You know, I didn't go in blind to this
22 consultation. Right? So I looked at the Complaint in the
23 case that was pending in front of Judge Schiltz. I also
24 looked at some of the pleadings and documents relating to
25 the case that had been in front of Judge Wright.

1 Q. Did you also see a communication from Tiffany Sanders to
2 Ms. Rondoni Tavernier indicating that there was an Order in
3 Judge Wright's case that was going to be relevant to your
4 discussion with Mr. Ivers?

5 A. Yes.

6 Q. And what do you remember about that?

7 A. Well, I remember that the ultimate conclusion of the
8 trial was unfavorable to Mr. Ivers.

9 Q. And what was the relevance of that to his new case in
10 front of Judge Schiltz, if anything?

11 A. It was certainly relevant to the substance of the advice
12 that we would give.

13 Q. Okay. So Ms. Rondoni Tavernier set up a telephone call
14 for February 27th of 2018, correct?

15 A. Yes.

16 Q. Had you ever met with or spoken to Robert Ivers before
17 that call?

18 A. No.

19 Q. Where were you when the call was made?

20 A. We were in her office.

21 Q. All right. And this was a phone call with Mr. Ivers; is
22 that correct?

23 A. Yes.

24 Q. Do you know where he was at the time?

25 A. I don't know.

1 Q. Were you on a speaker phone?

2 A. Yes.

3 Q. And what was the purpose of the phone call?

4 A. This was our consultation with him. So the purpose of
5 the call was for us to give him our preliminary assessment
6 of the case, to listen to him, and then either conclude the
7 representation or move into the full-blown representation in
8 this case.

9 Q. So at the end of it you were either going to decide to
10 represent him or not?

11 A. Yes.

12 Q. And when you say consult with him about the case, what
13 case was it that you were talking to him about?

14 A. I'm sorry, Judge Schiltz's case.

15 Q. Okay. And so did you have a phone call with Mr. Ivers?

16 A. Yes.

17 Q. And does a portion of that call deal with the case in
18 front of Judge Schiltz?

19 A. Yes, it does, the substance. Yes.

20 Q. I'm not going to ask you about the substance of that
21 portion of the call.

22 At some point in time in the phone call -- first
23 of all, how long was the phone call approximately?

24 A. Approximately 30 minutes.

25 Q. Okay. And of the 30 minutes approximately how much of

1 the call was related to the case in front of Judge Schiltz?

2 A. I would say most of it.

3 Q. Okay. And at some point in time -- was that the front
4 part of the conversation?

5 A. Yes.

6 Q. At some point in time, did Mr. Ivers start talking about
7 a different case?

8 A. Yes.

9 Q. What case did he start talking about?

10 A. He started talking about the case in front of Judge
11 Wright.

12 Q. And did his demeanor change when he began talking about
13 that case?

14 A. It did.

15 Q. And how would you describe his demeanor changing?

16 A. It was like a switch flipped.

17 Q. In what sense?

18 A. He had been, you know, calm. We had been having a
19 typical conversation, and then he became very angry and was
20 yelling.

21 Q. Again, you said you've represented a number of pro se
22 defendants. Did you ever experience anything like that
23 before?

24 A. Not that kind of yelling, no.

25 Q. And what did his change in demeanor indicate to you?

1 A. Well, I was immediately concerned about the change in
2 demeanor and then what he was starting to say, and I started
3 -- my instinct was to start taking notes.

4 Q. So did the volume of Mr. Ivers' voice change?

5 A. Definitely. Yes.

6 Q. Did the speed of his voice change?

7 A. It may have. I think he sped up. Usually sometimes
8 when people are upset or yelling, they speed up.

9 Q. Did the words that he was using in the call also change?

10 A. Yes. There was cursing and -- yeah.

11 Q. Okay. What was it about his change in demeanor -- did
12 it give you an indication of his emotional state?

13 A. I thought he was sort of irrational. Yeah.

14 Q. Did he appear to be angry?

15 A. He was very angry.

16 Q. Who was his anger directed at?

17 A. It was directed at Judge Wright.

18 Q. How do you know that?

19 A. That was the context in which he -- that switch flipped
20 and he started yelling and getting angry, and he was talking
21 about the case and the trial in front of her.

22 Q. Did the level of his anger stay the same or did it
23 appear to escalate during the call?

24 A. It escalated.

25 Q. What were some of the things that he said during the

1 call that you can recall?

2 A. He said, you know, "that fucking judge stole my life
3 from me." He talked about the fact that he had been
4 intending to seek a new trial but missed the deadline for
5 doing so, and that that was a good thing because he had been
6 planning to come to court and "throw some chairs." And then
7 the concluding comment he made was that he had imagined 50
8 different ways he planned to kill her.

9 Q. So how were you reacting at that time?

10 A. I'm in a state of shock, especially at the ultimate
11 threat that he made. Ms. Rondoni Tavernier and I locked
12 eyes and our mouths went agape. We didn't say anything at
13 that time. He was still kind of on his rant. But that was
14 very serious.

15 Q. How would you describe his level of anger at that time?

16 A. I would say it was barely controlled rage.

17 Q. You said at some point in time you began to write down
18 some of the things that he said; is that correct?

19 A. Yes.

20 Q. Did you write down everything he said or just a portion?

21 A. I did not write down everything he said. But I started
22 writing things down when he said, "that fucking judge stole
23 my life from me."

24 Q. All right. I'm going to ask --

25 MR. RANK: May I approach the witness, Your Honor?

1 THE COURT: You may.

2 BY MR. RANK:

3 Q. Ms. Friedemann, I'm showing you what's been marked for
4 identification as Government's Exhibit 15. Do you recognize
5 that?

6 A. Yes, I do.

7 Q. And what is shown in what's been marked for
8 identification as Government's Exhibit 15?

9 A. These are my notes from the conversation.

10 Q. Two pages of notes; is that correct?

11 A. That's correct.

12 Q. And is the first page of the notes -- the first pages of
13 notes what we call redacted?

14 A. Yes, it is.

15 Q. Meaning they are blanked out so you can't see what's in
16 them?

17 A. Correct. And on that page of notes I wrote some things
18 down about the substance of the advice that we gave to
19 Mr. Ivers.

20 Q. Regarding the case in front of Judge Schiltz?

21 A. Correct.

22 Q. And then the second page of your notes, what is shown
23 there?

24 A. Well, those -- and that is when I started writing. And
25 I did not take down everything, but I wrote down the

1 statements Mr. Ivers made that were of most concern to me.

2 Q. And when did you write these statements down?

3 A. As the phone call was occurring.

4 Q. So contemporaneous with when he was screaming on the
5 phone?

6 A. Yes.

7 MR. RANK: I would offer Exhibit 15 at this time.

8 MR. KELLEY: No objection, Your Honor.

9 THE COURT: Received.

10 BY MR. RANK:

11 Q. I'm going to put up Exhibit 15 on the screen in front of
12 you, Ms. Friedemann, so we can look at page 1 which shows
13 the date of the call and then also shows in the upper,
14 left-hand corner the blanked-out portion it says "Redacted";
15 is that correct?

16 A. Correct.

17 Q. So it has Mr. Ivers' name at the top and then it says
18 "FBA Pro Se Project," correct?

19 A. Yes.

20 Q. Is that your handwriting?

21 A. It is.

22 Q. I'll take you to the next page, and we're going to do
23 this a little bit at a time because it's hard to see. Can
24 you see that on the screen?

25 A. I can.

1 Q. And these are things that you wrote down as Mr. Ivers
2 was speaking, correct?

3 A. Yes.

4 Q. And what does the first thing say?

5 A. It says, "this fucking judge stole my life from me."

6 Q. Below there are quotes at the beginning of that. Maybe
7 they're underneath the bottom of the "g." Are there quotes
8 on the end as well?

9 A. I believe so. Yes.

10 Q. And then what is the next statement?

11 A. "I had overwhelming evidence."

12 Q. First of all, who is he talking about during this time
13 period?

14 A. He was talking about Judge Wright.

15 Q. And when he says, "I had overwhelming evidence," did you
16 understand what he was referring to in that statement?

17 A. Yes. He was referring to the trial in front of her.

18 Q. And then it said, "the judge 'stacked the deck' to make
19 sure I lost the case." Is that also about Judge Wright?

20 A. Yes.

21 Q. You've got the -- 'stacked the deck' is in quotes. Does
22 that reflect that that's a verbatim quote?

23 A. It does.

24 Q. If we go a little further down, there is another portion
25 in there. Can you read what that says.

1 A. That says, "didn't read the fine print and missed the 30
2 days to seek a new trial." And "she is lucky" I was "going
3 to throw some chairs."

4 Q. So, Ms. Friedemann, you are calm right now. You're
5 reading that right now. How was it that Mr. Ivers was
6 delivering this?

7 A. He was yelling, very angry.

8 Q. And this is part of what you said, that "barely
9 controlled rage" time period?

10 A. Yes.

11 Q. And what was he talking about or did you understand what
12 he was talking about in reference to the didn't read the
13 fine print and missed the 30 days to seek a new trial? What
14 was that about?

15 A. That was what I was referring to, where he had missed
16 the deadline for him to seek a new trial. And he was
17 talking about what he would've done in the courtroom that
18 day had there been a hearing in front of her.

19 Q. And that he was going to "throw some chairs"?

20 A. Yes.

21 Q. Then moving to the bottom, what does that say?

22 A. It says, "you don't know the 50 different ways I planned
23 to kill her."

24 Q. And who was that in reference to?

25 A. It was in reference to Judge Wright.

1 Q. Again, his tone of voice, his demeanor at the time that
2 he was saying this was what?

3 A. It was very scary. It was -- he was very clearly angry
4 and out of control.

5 Q. At this point in time how are you reacting?

6 A. Well, I -- I was um, frankly, kind of frightened, scared
7 for Judge Wright.

8 Q. You talk to a lot of people in your job as a lawyer?

9 A. Yes.

10 Q. And perhaps even some people that are not happy with
11 their case?

12 A. Yes, unfortunately.

13 Q. And have you ever had any sort of reaction like this in
14 your career?

15 A. No.

16 Q. You described Mr. Ivers in this time period as
17 uncontrolled or "barely controlled rage"?

18 A. Yes. I think that's accurate.

19 Q. Who was the focus of his anger at this time?

20 A. It was Judge Wright.

21 Q. During this time period -- how long of a period of time
22 was this ranting portion of the call? Do you recall?

23 A. You know, I'm not good at time, especially because this
24 was such a strange experience, so I couldn't tell you if it
25 was two minutes or six, but that sort of -- roughly.

1 Q. Are you having an emotional reaction as you're listening
2 to this?

3 A. Oh, yes.

4 Q. Did you engage with Mr. Ivers while he was saying these
5 things?

6 A. No.

7 Q. You mentioned that you were looking at Ms. Rondoni
8 Tavernier at the time. Could you tell from looking at her
9 what her reaction was?

10 A. She was just as shocked as I was.

11 Q. How did the call end?

12 A. Eventually Mr. Ivers finished his rant, and we wanted to
13 conclude the call. I indicated our consultation was over,
14 and that is the way that it ended.

15 Q. After the call ended with Mr. Ivers, did you have any
16 conversation with Ms. Rondoni Tavernier?

17 A. I did. I think I said -- well, I think I said, "Holy
18 shit, did that just happen?" And we agreed that we should
19 talk to ethics counsel about what to do.

20 Q. Okay. What does that mean?

21 A. Well, there is a -- in any law firm, especially one of
22 our size, one of our colleagues serves as the lawyer to the
23 law firm, and we wanted to seek advice ourselves as to what
24 we should do in this circumstance.

25 Q. And does that have anything to do with sort of rules

1 about confidentiality, of speaking with people?

2 A. Yes. Absolutely it does. The starting point for any
3 representation with anyone is that the communications are
4 confidential and privileged and there's confidence there.
5 So this situation presented a circumstance that was one
6 where we needed to seek advice.

7 Q. So that's sort of an internal process when the rules of
8 ethics come up?

9 A. Yes.

10 Q. You said there were some rules of confidentiality; is
11 that correct?

12 A. Yes.

13 Q. Generally speaking, you can't disclose information from
14 people that you're speaking to?

15 A. Correct.

16 Q. Clients or potential clients?

17 A. Right.

18 Q. Are there some exceptions to that rule?

19 A. There are some exceptions.

20 Q. And so did you at some point in time speak with the
21 firm's ethics counsel?

22 A. I did.

23 Q. That was sort of a requirement before talking about
24 anything that would otherwise be a client confidence?

25 A. Yes, in my mind it was.

1 Q. Were you able to make a decision about what to do with
2 that information immediately?

3 A. No, I wasn't. We -- I -- no decision had been made
4 until the following day.

5 Q. And how did you -- how were you dealing with that in the
6 meantime?

7 A. I found myself really not able to focus very well that
8 afternoon at work, and then I didn't sleep well that night.

9 Q. Why is that?

10 A. I just kept -- what Mr. Ivers said, the way he said it
11 just kept entering my thoughts.

12 Q. What were you concerned about?

13 A. Well, I was concerned about what he might do. I
14 definitely viewed this as a scary thing, a threat. I had,
15 you know, questions about my own obligations as a lawyer.
16 And, you know, obviously I want to always do the right thing
17 for my clients. So it was stressful.

18 Q. In your 23 years as a lawyer, had you ever had to report
19 a threat made by anyone that you had gotten confidential
20 information from?

21 A. No.

22 Q. Had you ever had to report a threat to a judge before?

23 A. No.

24 Q. What, if anything, did you do with regard to the threat?

25 A. I made a report. I ultimately -- we decided to report

1 at least the threats that were made -- not the rest of the
2 conversation, but the threats. And not knowing who to call,
3 I called Tiffany Sanders who runs the program.

4 Q. And did you report to Ms. Sanders that the threat had
5 been made to the Judge?

6 A. Yes.

7 Q. Did you at some point in time -- well, let me ask you,
8 in that first call did you tell her what the threat was?

9 A. I don't believe I did.

10 Q. Did she at some point in time contact you again to get
11 some more information?

12 A. She did, and I conveyed to her that Mr. Ivers had said
13 he'd imagined 50 different ways he planned to kill Judge
14 Wright.

15 Q. The statement "you don't know the 50 different ways I
16 planned to kill her"?

17 A. Yes.

18 MR. SCOTT: Your Honor, could I have that last
19 answer and the next question -- and the sum of that answer
20 read back. I'm not sure they're the same and I'd like to
21 check.

22 THE COURT: Do you want the last answer back?

23 MR. SCOTT: Could I have the answer and then his
24 summary, which I think is --

25 THE COURT: Yeah. The last answer is: She did

1 and I conveyed to her that Mr. Ivers had said he imagined 50
2 different ways to plan to kill Judge Wright.

3 Next question is the statement, the 50 ways I
4 planned to kill her?

5 MR. SCOTT: Yeah, I'm going to ask that the
6 question be stricken as a misstatement of the testimony.

7 THE COURT: Sustained.

8 BY MR. RANK:

9 Q. Ms. Friedemann, on the screen above you, is that a
10 verbatim statement of what Mr. Ivers said to you?

11 A. It is. And I don't remember when I was talking to
12 Ms. Sanders if I had my notes in front of me or not. I
13 probably did; and if I did, I would have read it verbatim.

14 Q. Did you at some point in time, Ms. Friedemann, get a
15 call from a deputy U.S. marshal?

16 A. I did.

17 Q. Was it shortly after you contacted Ms. Sanders?

18 A. Very quickly after.

19 Q. And, in fact, was the person that you spoke to Deputy
20 Wooton who's at counsel table?

21 A. Yes.

22 Q. Did you talk to him about the phone call with Mr. Ivers?

23 A. I did.

24 Q. Did you talk to him about the entire call?

25 A. No, I did not talk to him about the entire call. It was

1 a pretty short conversation. I did have my notes in front
2 of me, and I read to him the ultimate threat that Mr. Ivers
3 had made.

4 Q. And that was -- were you on the telephone with him?

5 A. Yes.

6 Q. And that's the portion that's blown up on the screen
7 behind you?

8 A. Yes, that "you don't know the 50 different ways I
9 planned to kill her."

10 Q. And this would've been on the 28th of February; is that
11 correct?

12 A. Yes.

13 Q. At a later time, did you have a somewhat more detailed
14 conversation with Deputy Wooton and Ms. Allyn from the U.S.
15 Attorney's Office?

16 A. Yes, we did.

17 Q. And in that conversation did you provide some of the
18 other information that was in your notes?

19 A. I did. We shared then the contents of the notes that
20 are on page 2.

21 Q. And, again, did you read from those notes when you spoke
22 to them?

23 A. I did.

24 Q. Now, Ms. Friedemann, yesterday during Mr. Scott's
25 opening, he mentioned some testimony that you gave on June

1 18th of 2018. Do you remember testifying in a hearing on
2 June 18th of 2018?

3 A. I do.

4 Q. And during that testimony did you have your notes with
5 you?

6 A. No, I didn't.

7 Q. Was your memory at the time that you wrote these notes
8 down better than it was on June 18th of 2018?

9 A. For sure.

10 Q. I'm going to say something to you, Ms. Friedemann. I
11 want you to tell me back what I say. You don't know the 50
12 different ways I plan to kill her. What did I just say?

13 A. "You don't know the 50 different ways I plan to kill
14 her."

15 Q. Do you know if I say plan or planned?

16 A. No.

17 Q. Ms. Friedemann, did Mr. Ivers' words, demeanor, tone of
18 voice, behavior indicate that he had a present anger towards
19 Judge Wright during that call?

20 A. Yes.

21 Q. And he had said you don't know the 50 different ways I
22 plan to kill her, correct?

23 A. Correct.

24 Q. Did Mr. Ivers' words, demeanor, tone of voice, behavior
25 give any indication that he had abandoned those plans?

1 A. No.

2 Q. Now, did Mr. Ivers ever call back -- call you back after
3 the February 28th phone call and say that he was sorry about
4 what he said?

5 A. No.

6 Q. Did he ever call you back after that February 28th phone
7 call and say he really hadn't planned to kill Judge Wright?

8 A. No, he didn't.

9 Q. Other than the phone call on February 27th of 2018, have
10 you ever spoken with Mr. Ivers again?

11 A. No.

12 MR. RANK: Thank you very much, Ms. Friedemann. I
13 have no further questions.

14

15 **CROSS-EXAMINATION**

16 **BY MR. KELLEY:**

17 Q. Good afternoon, Ms. Friedemann.

18 A. Good afternoon.

19 Q. So I'm going to jump right into February 27th phone
20 call.

21 A. Okay.

22 Q. So Ms. Rondoni Tavernier had scheduled this call with
23 Mr. Ivers for sometime in the morning of February 27th,
24 correct?

25 A. Yes.

1 Q. And you were sitting in on the call because Ms. Rondoni
2 Tavernier is a more junior attorney?

3 A. Yes.

4 Q. So you were supervising her in essence?

5 A. In essence.

6 Q. She was doing most of the questioning?

7 A. Yes. She handled the phone call.

8 Q. Okay. But it's just the three of you on the call?

9 A. There were only the two of us on our end.

10 Q. So you and Ms. Rondoni Tavernier on your end and
11 Mr. Ivers on his end?

12 A. Yes.

13 Q. Okay. And you two placed -- that's you and Ms. Rondoni
14 Tavernier -- placed the call to Mr. Ivers?

15 A. I believe she did place the phone call.

16 Q. No one else on the phone call?

17 A. Not to my knowledge.

18 Q. And Mr. Rank has gone over kind of the details of the
19 second case and the first case, but the purpose of this call
20 was for Ms. Rondoni Tavernier to explain the viability of
21 Mr. Ivers' second civil lawsuit, correct?

22 A. Yes.

23 Q. To tell him, essentially, that it was a loser, he was
24 going to lose?

25 A. Do you want me to go into the substance of the legal

1 advice we provided to Mr. Ivers? I can answer the question,
2 but would you like me to? I believe it's privileged.

3 Q. You think that part is privileged?

4 A. Yes.

5 Q. Yes. Did Ms. Rondoni Tavernier tell Mr. Ivers he was
6 going to lose his case?

7 A. Yes.

8 Q. Okay. And before this phone call --

9 THE COURT: Could we have a sidebar.

10 (Sidebar discussion.)

11 THE COURT: Needless to say, I've never had this
12 before, so I've not thought about it before today. When
13 anybody asks for this, I think it is privileged. I don't
14 think she can say on the merits -- what she told him about
15 the merits, the viability of the lawsuit.

16 MR. RANK: Except if she -- you can waive
17 privilege. By asking a question you can waive privilege.

18 THE COURT: But, I mean, shouldn't somebody tell
19 her or do we presume that she knows the appropriate rules or
20 --

21 MR. RANK: I think what has taken place here -- if
22 Mr. Ivers wants to waive his privilege, that counsel
23 represents Mr. Ivers, if counsel is asking a question that
24 knowingly invades the attorney-client privilege and he
25 doesn't have authorization from the client, then that's --

1 THE COURT: So this is an implicit waiver of the
2 privilege? That's what you're saying?

3 MR. RANK: Yes, sir.

4 MR. SCOTT: Although, Your Honor, I would say
5 this, from our point of view, the Court has already sliced
6 out so much of the conversation that --

7 THE COURT: No, no, no, I understand.

8 MR. SCOTT: -- it's nonsensical without the rest
9 of it coming in.

10 MR. RANK: It's a knowing, implicit waiver.

11 THE COURT: Okay. Just so it's an implicit
12 waiver. Yeah.

13 MR. SCOTT: But it's not independent of the fact
14 that you gave him the second page. You have to talk about
15 the first page.

16 THE COURT: Mr. Scott, you have the air bag.

17 MR. SCOTT: I worry about those things.

18 MR. RANK: Thanks, Judge.

19 THE COURT: Thank you.

20 (Sidebar discussion ended.)

21 THE COURT: Mr. Kelley, I apologize for the
22 sidebar. That was helpful to me.

23 BY MR. KELLEY:

24 Q. So Ms. Rondoni Tavernier was going to tell Mr. Ivers he
25 was going to lose his second case. Did she, in fact, tell

1 him that his second case was going to lose?

2 A. Yes.

3 Q. And before you had this phone call on February 27th,
4 Tiffany Sanders had told you guys -- the two of you,
5 Ms. Rondoni Tavernier and you -- that Mr. Ivers might become
6 upset when you tell him he was going to lose his second
7 case, right? She told you about that?

8 A. I believe you're referring to an email?

9 Q. Correct.

10 A. Not having it in front of me, I don't know if you've --
11 if your characterization is perfectly accurate, but I recall
12 her saying something about -- and it's something that I have
13 said in the past, that it's often better to give bad news in
14 smaller doses if you can.

15 Q. Okay. But Ms. Rondoni Tavernier intended to tell him he
16 was going to lose his second case?

17 A. Ms. Rondoni Tavernier explained to him why his second
18 case was not viable.

19 Q. Part of that included a discussion of his first case in
20 front of Judge Wright, correct?

21 A. I'm not sure -- no. Not really.

22 Q. The two cases were based on the same set of facts and
23 circumstances, correct?

24 A. Yes.

25 Q. Okay. So if you're talking about the second case, it's

1 necessarily going to include the exact same facts and
2 circumstances as the first case, right?

3 A. I think I can answer that question, Mr. Kelley, but I
4 want to make sure that you're okay with me explaining the
5 why about that, because it involves the advice that we gave
6 to Mr. Ivers that I do believe is privileged. So unless
7 you're waiving it on his behalf, I guess I'm not really
8 comfortable talking about it.

9 Q. Please go ahead.

10 A. Then, yes, we talked about the first case to the extent
11 that we needed to to explain to him that you get one chance
12 to make your claims based on one single set of facts and if
13 it doesn't go your way, you don't go to re-do it.

14 Q. Okay. So that was the advice you were going to giving
15 him?

16 A. That is the advice that we gave him.

17 Q. You did, in fact, give him that advice?

18 A. Ms. Rondoni Tavernier did, yes.

19 Q. And did you discuss why Judge Wright denied him a jury
20 trial?

21 A. No.

22 Q. Did you discuss why Judge Wright denied him a motion for
23 a new trial?

24 A. No, other than Mr. Ivers' rant that possibly --

25 Q. So no?

1 A. But, no, we did not discuss that.

2 Q. So toward the end of the phone call he becomes upset,
3 correct?

4 A. Yes, angry.

5 Q. Okay. He's yelling, swearing a little bit?

6 A. Yes.

7 Q. Swearing a lot?

8 A. It depends on what you think "a lot" is. There was more
9 than one curse word in the call.

10 Q. So you practice intellectual property law?

11 A. Yes.

12 Q. Safe to say that most of your clients don't swear during
13 consultations?

14 A. I wouldn't say that. I have had some colorful clients
15 in my career.

16 Q. You've never had somebody, apparently, that swore as
17 much as Mr. Ivers?

18 A. No, I wouldn't say that either.

19 Q. Really?

20 But you're taking notes during the end of this
21 phone call?

22 A. I took notes, yes.

23 Q. And you wrote down verbatim and contemporaneously what
24 Mr. Ivers said?

25 A. I did.

1 Q. And on that phone call you wrote down "you don't know
2 the 50 different ways I planned" past tense "to kill her"?

3 A. That's what I wrote, yes.

4 Q. Past tense, correct?

5 A. Yes.

6 Q. That was February 27th, 2018, correct?

7 A. It was.

8 Q. In the morning?

9 A. I believe it was at 11:00 our call was scheduled.

10 Q. Okay. You wait a full at least 24 hours before you call
11 anybody, correct, before you report this to anyone?

12 A. Yes.

13 Q. So you wait over 24 hours and you call Tiffany Sanders?

14 A. Yes. And in that period of time I --

15 Q. Thank you.

16 So you call her the next day, February 28th. And
17 you don't remember if you had your notes in front of you, do
18 you?

19 A. I don't.

20 Q. Okay. And you don't really remember what you told
21 Ms. Sanders on that first phone call?

22 A. Other than --

23 Q. Yes or no. Do you?

24 A. Some, yes. Can I repeat it for you word for word? No.

25 Q. Okay. So you don't remember the exact words you told to

1 Ms. Sanders?

2 A. No.

3 Q. All right. Is it possible you said "a threat against
4 Judge Wright" had been made?

5 A. That's quite possible.

6 Q. Is it possible you said "a threat against Judge Wright's
7 life" had been made?

8 A. That's also possible.

9 Q. Okay.

10 A. I don't see much difference between the two.

11 Q. But it's possible you said those instead of the words
12 that you wrote down in your notes?

13 A. Yes. In fact, I believe that is what I conveyed to her.

14 Q. Okay. So you conveyed something different than what you
15 had written down in your notes?

16 A. I summarized the notes as a threat, a death threat
17 against Judge Wright.

18 Q. So you call Tiffany Sanders a day later and you tell her
19 there is a death threat against Judge Wright?

20 A. Yes.

21 Q. Okay. You don't use the words verbatim that you had
22 written down that Mr. Ivers had said during the phone call?

23 A. I don't believe I did during that initial call to
24 Ms. Sanders.

25 Q. I have a curious question: If you thought a death

1 threat had been made against Judge Wright, why didn't you
2 call the police right away?

3 MR. RANK: Objection, argumentative.

4 THE COURT: Overruled.

5 THE WITNESS: My steps of what I believed was the
6 most prudent was first to speak with our firm counsel so I
7 understood my own ethical obligations, and once having done
8 that I made a report.

9 BY MR. KELLEY:

10 Q. Okay. So you told Tiffany Sanders there was a death
11 threat and you waited over 24 hours to report it to someone,
12 correct?

13 A. It took me that long to connect with my firm's counsel.

14 Q. So you wait 24 hours and you call Tiffany Sanders. She
15 is not law enforcement, is she?

16 A. No, but I --

17 Q. She is not law enforcement, is she?

18 A. She is not law enforcement.

19 Q. All right. Later on February 28th -- so you've reported
20 death threat against Judge Wright to Tiffany Sanders. You
21 get a call from Deputy Wooton later that day?

22 A. Yes.

23 Q. Okay. Deputy Wooton and you have a conversation, short
24 conversation, right?

25 A. Yes.

1 Q. Okay. And you told Deputy Wooton "you don't know the 50
2 different ways I plan," present tense, "to kill her." Isn't
3 that what you told him?

4 A. I read to the Deputy from my notes, and I don't believe
5 there is -- it's not very easy to distinguish between the
6 present and past tense orally.

7 Q. Thank you.

8 You remember testifying at an evidentiary hearing
9 in this courtroom, in fact, on June 18th?

10 A. I do.

11 Q. Do you remember being asked what you told Deputy Wooton
12 on February 28th?

13 A. Not specifically.

14 Q. Would it refresh your recollection to look at the
15 evidentiary hearing transcript?

16 A. You can show it to me. I'm sure it would refresh my
17 recollection as to what I said.

18 Q. Page 46. Please turn to page 46, Ms. Friedemann.

19 A. Okay. I'm there.

20 Q. Okay. At the bottom, line 24, it's a question from
21 Ms. Allyn.

22 A. Yes. I see the question and my answer.

23 Q. Okay. So do you remember testifying that you told
24 Deputy Wooton you don't know the 50 different ways I plan,
25 present tense, to kill her?

1 A. The transcript is written in the present tense.

2 Q. Okay. So the transcript says "plan to kill"?

3 A. The transcript says "plan."

4 Q. Present tense?

5 A. Present tense. And I answered, "Yes." Of course, I did
6 not have the written transcript in front of me.

7 Q. So today you're testifying that you told Deputy Wooton
8 planned, past tense? Is that what you testified to about
9 five minutes ago?

10 A. I read my notes, so I read "planned."

11 Q. Past tense?

12 A. That's how I read it, yes. That's what I wrote.

13 Q. And on June 18th you testified "plan," present tense?
14 That's what the transcript says, correct?

15 A. The transcript is written in the present tense.

16 Q. So it does say that?

17 A. The question was posed to me by Ms. Allyn. I, frankly,
18 don't know whether she was speaking in the present or the
19 past tense.

20 Q. But your response was "plan," present tense, according
21 to the transcript, correct? Yes or no?

22 A. According to the transcript.

23 Q. Okay. Let's fast forward to March 16th. March 16th you
24 get a phone call from Assistant U.S. Attorney Tim Rank and
25 Deputy Wooton. So this is the second time you've talked to

1 Deputy Wooton. Do you remember this phone call?

2 A. I do.

3 Q. Okay. And at that point, the marshal told you what he
4 remembered you telling him, which is you don't know the 50
5 different ways I plan, present tense, to kill her?

6 MR. RANK: Objection. That misstates the
7 evidence.

8 THE COURT: Overruled.

9 BY MR. KELLEY:

10 Q. Do you remember agreeing that you said "you don't know
11 the 50 different ways I plan," present tense, "to kill her"
12 to the marshal?

13 A. When I spoke to the marshal on both occasions, I had my
14 notes in front of me and I read them verbatim because I knew
15 it was important.

16 Q. So if the marshal has something else written down, he
17 must be wrong?

18 A. I think it's very difficult to --

19 Q. That was a yes or no question.

20 THE COURT: Well, there's a question posed.

21 Ms. Friedemann, I think the pending question -- I don't
22 think you'd completed your answer -- so if the marshal has
23 something else written down, he must be wrong? Answer: You
24 began, "I think it's very difficult to --"

25 THE WITNESS: I think it's very difficult to

1 distinguish between the present and past tense in that
2 phrase. So I may have intended the past tense and he may
3 have heard the present.

4 BY MR. KELLEY:

5 Q. They confirmed during that phone call that you wrote
6 down what Mr. Ivers said verbatim and contemporaneously,
7 correct?

8 A. Yes.

9 Q. April 18th Mr. Ivers is indicted. Are you aware of
10 that?

11 A. No.

12 Q. Are you aware that he is indicted generally?

13 A. I am now.

14 Q. He is in trial based on an indictment?

15 A. Obviously, I understand that.

16 Q. And do you understand that he was indicted for the
17 phrase "you don't know the 50 different ways I plan,"
18 present tense, "to kill her"?

19 MR. RANK: Objection, relevance.

20 THE COURT: What was the relevance? Sustained.

21 BY MR. KELLEY:

22 Q. Let's go to May 7th. You sit down with the government
23 again. So this time you sit down with Assistant U.S.
24 Attorney Julie Allyn and Deputy Wooton again. They
25 interview you. It's a phone call. Do you remember this?

1 A. I'm not sure. I remember an in-person meeting.

2 Q. Okay. It might've been in-person. Do you remember an
3 in-person meeting?

4 A. I do.

5 Q. Would it have been at the U.S. Attorney's Office in
6 Minneapolis?

7 A. Yes.

8 Q. So you went down to their office to talk to them?

9 A. I did.

10 Q. Okay. Did Mr. Ivers give you permission to do that?

11 A. No.

12 Q. Okay. And this time you tell Deputy Wooton and
13 Ms. Allyn that Mr. Ivers said, "you don't know the 50
14 different ways I plan," present tense, "to kill her."
15 That's what you told them?

16 A. I believe I had my notes and read from them. And,
17 again, I -- I can read it to you if you want, Mr. Kelley.

18 Q. No, I do not.

19 A. Okay.

20 Q. But do you remember what you said to them?

21 A. I believe I read from my notes.

22 Q. Do you remember what you said to them?

23 A. I believe I said that Mr. Ivers had said "you don't know
24 the 50 different ways I planned to kill her."

25 Q. Okay. Let's go to June 18th. So I'm going to talk

1 about the hearing again.

2 At the hearing you testified to something
3 different, correct?

4 A. I don't believe so.

5 Q. At the hearing when asked by Ms. Allyn what Mr. Ivers
6 said during the phone call you said, "He said he had
7 imagined 50 different ways to kill her," "imagined," past
8 tense. Do you remember saying that?

9 A. If that's what the transcript says, it probably is what
10 I said.

11 Q. Okay. So you said then during that testimony on June
12 18th "imagined" in the past tense?

13 A. Perhaps. I didn't have my notes in front of me, nor was
14 I trying to give a direct quote.

15 MR. RANK: Your Honor, may we approach?

16 THE COURT: Yes.

17 (Sidebar discussion.)

18 MR. RANK: We have another witness that has a
19 three-week old baby, Ms. Rondoni Tavernier. Do you know how
20 much longer you have with Ms. Friedemann?

21 MR. KELLEY: It will take us to 5:00 at least.

22 MR. RANK: Can we take Ms. Rondoni Tavernier,
23 because in order to get to her -- she has been here all day.
24 She has a three-week old baby.

25 MR. KELLEY: You want to stop with Friedemann?

1 MR. RANK: You can resume your cross. We can take
2 her out of order. I'm worried she is coming out of order.

3 MR. SCOTT: We didn't cause this problem, Your
4 Honor.

5 MR. RANK: I'm not saying you caused the problem.

6 THE COURT: Can you give me a reasonable estimate
7 of how long you're going to be?

8 MR. KELLEY: Over 45 minutes.

9 THE COURT: 45 minutes from now? Okay. We'll
10 take a recess and take the witness out of order. If you are
11 going to be 45 minutes, I assume you're going to go back
12 over what you covered so far?

13 MR. KELLEY: Additional things.

14 THE COURT: That's fine if we get her on. I think
15 it's sound discretion of the trial court. Seems to me she's
16 always going to be available. If she has a three-week-old
17 baby and has been here all day, I mean -- my sense is we
18 ought to put her on.

19 MR. KELLEY: I mean, I'm not going to be able to
20 get through cross on her by 5:00. It's 4:30 now.

21 THE COURT: We'll work past 5:00 if we have to. I
22 mean, I don't know --

23 MR. SCOTT: I can't imagine my cross --

24 THE COURT: Wait a minute. You've all forgotten
25 who my favorite judicial philosopher is, Rodney King. Can't

1 we all just get along here. This seems to be a reasonable
2 solution, to put the witness on. But if you are going to be
3 that long, I guess it's not reasonable. We'll have her come
4 back tomorrow. So we'll continue with Ms. Friedemann.

5 (Sidebar discussion ended.)

6 THE COURT: Okay. Mr. Kelley, when we left off
7 here -- I'm going back to the record you were making -- "Q.
8 Okay. So you said then during the testimony on June 18th
9 'imagined' in the past tense?

10 A. Perhaps. I didn't have my notes in front of
11 me, nor was I trying to give a direct quote."

12 And then Mr. Rank asked to approach, if that helps
13 you.

14 MR. KELLEY: Yes. Thank you, Your Honor.

15 THE COURT: All right.

16 BY MR. KELLEY:

17 Q. So, June 18th hearing, we were just talking about what
18 you testified to as far as what Mr. Ivers said during the
19 February 27th phone call, and I asked you if you remembered
20 saying to Ms. Allyn in response to Ms. Allyn's question that
21 Mr. Ivers said, "He said he had imagined," past tense, "50
22 ways to kill her."

23 MR. RANK: Objection, asked and answered, Your
24 Honor.

25 THE COURT: Sustained.

1 BY MR. KELLEY:

2 Q. Do you remember saying "imagined" in past tense during
3 that hearing?

4 A. No.

5 Q. Would it refresh your recollection to look at the
6 transcript?

7 A. Sure.

8 THE COURT: Ladies and gentlemen, while she's
9 looking at the transcript, you've been seated over an hour.
10 If you want to take a minute to stretch, you can do so.

11 (Stretch break)

12 BY MR. KELLEY:

13 Q. Okay. Ms. Friedemann, now that you have had a chance to
14 look at your testimony, do you remember saying the words "he
15 had imagined," past tense, "50 ways to kill her"?

16 MR. RANK: Objection, asked and answered.

17 THE COURT: Overruled.

18 THE WITNESS: What I said was Mr. Ivers was very
19 angry. He said -- and I'll use his words -- "that fucking
20 judge stole my life from me," and he said he'd imagined 50
21 ways to kill her.

22 BY MR. KELLEY:

23 Q. So you did say "imagined"? That is what you testified
24 to?

25 A. Unless the transcript was incorrect, and I doubt it.

1 Q. So you doubt the transcript was incorrect? You did say
2 "imagined"?

3 A. It looks like I did.

4 Q. While you're on that page, the next question Ms. Allyn
5 asked you was: "Did Mr. Ivers say anything about a plan to
6 kill her?" What did you say?

7 A. I said, "No," and I had --

8 Q. Okay. Thank you. You said, "No."

9 A. I understood the question was asking --

10 MR. KELLEY: There is no question before the
11 witness, Your Honor. I would object to that.

12 THE COURT: Well, you have to let her answer the
13 question that was pending, Counsel.

14 MR. KELLEY: She answered "No," Your Honor.

15 THE COURT: Well, let me see it. Let me go back
16 here. Well, actually, she didn't finish because the last
17 part of it was: While you're on that page, the next
18 question Ms. Allyn asked you, did Mr. Ivers say anything
19 about planning to kill her, what did you say?

20 A. "I said, 'No,' and I had --" And then there
21 was an interruption.

22 Had you completed your answer?

23 THE WITNESS: I had not, Your Honor. I said, "No"
24 and I had understood that Ms. Allyn was asking about a
25 specific plan, like I'm going to use a gun or I'm going to

1 -- that sort of thing.

2 BY MR. KELLEY:

3 Q. I'm going to stop you there. That's not what she said,
4 is it?

5 A. That's what I had understood.

6 Q. Okay. Ms. Allyn just said -- her words are: "Did he
7 say" -- make sure I get it right -- "did he say anything
8 about a plan to kill her" --

9 MR. RANK: Asked and answered, Your Honor, and
10 argumentative.

11 THE COURT: Argumentative. Sustained.

12 BY MR. KELLEY:

13 Q. She didn't ask if he had a specific plan, did she?

14 MR. RANK: Objection, argumentative.

15 THE COURT: Sustained.

16 BY MR. KELLEY:

17 Q. You told Ms. Allyn Mr. Ivers did not have a plan to kill
18 her?

19 MR. RANK: Objection, asked and answered, and
20 argumentative.

21 THE WITNESS: That is definitely not what I said.

22 BY MR. KELLEY:

23 Q. Okay. Let's talk about another subject here. Talking
24 about this February 27th phone call, it is just you,
25 Ms. Rondoni Tavernier, and Mr. Ivers on the phone call.

1 Mr. Ivers never told you to communicate what was said during
2 that phone call to anyone else, did he?

3 A. No.

4 Q. Okay. He didn't tell you to communicate anything that
5 was said during that phone call to Judge Wright?

6 A. Correct.

7 Q. He didn't tell you to communicate anything that was said
8 during that phone call to Judge Wright's staff?

9 A. That's correct.

10 Q. Didn't tell you to communicate it to the court?

11 A. No.

12 Q. Okay. Not to Tiffany Sanders?

13 A. That's correct.

14 Q. Not to the marshals?

15 A. Correct.

16 Q. I believe Mr. Rank talked to you about the duty of
17 confidentiality.

18 A. Yes.

19 Q. And the general rule is that a lawyer shall not
20 knowingly reveal information relating to the representation
21 of a client?

22 A. Yes. That's a general rule.

23 Q. That's a general rule. There are some exceptions to it?

24 A. Correct.

25 Q. Mr. Ivers did not expect you to reveal anything that was

1 said during the February 27th phone call, did he?

2 MR. RANK: Objection, foundation, calls for
3 speculation.

4 THE COURT: You want to lay some foundation?

5 MR. KELLEY: Okay.

6 BY MR. KELLEY:

7 Q. During the February 27th phone call, did you tell
8 Mr. Ivers you were going to disclose what he said during
9 that phone call to somebody else?

10 A. No.

11 Q. Okay. And is it reasonable for a client to expect, any
12 client, that their attorney will keep their communications
13 confidential generally speaking?

14 MR. RANK: Objection. Mr. Ivers wasn't a client
15 and what he would expect --

16 THE COURT: Counsel, what I think is foundation --
17 Mr. Rank and Mr. Kelley, what I think is foundation is what
18 normally goes into an engagement with a lawyer and a client.
19 That's the kind of foundation that I was looking for.

20 MR. KELLEY: I'll lay a little bit more.

21 THE COURT: All right.

22 BY MR. KELLEY:

23 Q. So, generally speaking, when you're dealing with a
24 client, okay -- and it could be a prospective client, could
25 be a client that's paying and you've fully taken on to do an

1 entire case -- if you have a conversation that is
2 confidential, that means that it's just between the attorney
3 and the client, there's nobody else listening, it's just the
4 two of you generally speaking, correct?

5 A. I'm not sure I understand the question.

6 Q. So a confidential communication is something that is
7 just between an attorney and the client?

8 A. It's generally what the word "confidential" means.

9 Q. Okay. And clients expect what is said to their attorney
10 will be kept confidential, generally speaking, right?

11 A. I don't know that all clients expect that or that -- and
12 I certainly don't know what Mr. Ivers thought.

13 Q. Okay. So you're saying now that clients don't expect
14 that you will keep their information confidential when they
15 talk to you?

16 A. I don't expect that -- there are some clients who are
17 lawyers themselves and have a keen understanding of
18 privilege and confidence; many are not, and I suspect that
19 they may not.

20 Q. Okay. I'm going to go over a hypothetical here from the
21 duty of confidentiality. Okay?

22 If a client -- prospective client let's say --
23 somebody comes to you as an attorney, knows you're an
24 attorney and says, I killed my wife, I buried her in the
25 backyard, she's dead, that information is confidential,

1 isn't it?

2 MR. RANK: Objection, relevance, Your Honor.

3 THE COURT: Overruled.

4 THE WITNESS: I don't believe so.

5 BY MR. KELLEY:

6 Q. It relates to past conduct.

7 So your answer today is that you could -- that
8 information is not confidential?

9 A. Mr. Kelley, you're asking me a hypothetical that is
10 incomplete, and I don't believe you had included in your
11 hypothetical the idea that this was a current client.

12 Perhaps I --

13 Q. A prospective client and a current client, both are owed
14 the duty of confidentiality, correct?

15 A. Yes.

16 Q. Okay. So then it doesn't matter. If somebody comes --
17 a prospective client or a current client -- and tells you
18 that information, the duty of confidentiality applies to it,
19 correct?

20 MR. RANK: Objection, compound question, the form
21 of the question. I don't even understand the question.

22 THE COURT: That's sustained.

23 Ladies and gentlemen, we're going to recess for
24 the day. I don't want you to punish the government or the
25 defense because they've been a little contentious this

1 afternoon. That's the nature of lawyering. You're smiling,
2 but I mean that. You've got to decide this case based only
3 on the evidence and on the instructions, not on what you
4 think the lawyers should or shouldn't have done or did. So
5 it's my job to handle the objections. So remember the
6 admonition of the Court.

7 The lawyers are going to stay. We're going to
8 discuss some matters about how to proceed tomorrow.

9 So don't access any additional information beyond
10 what you're getting here in court. So we'll be in recess
11 until 8:30 tomorrow with the jury.

12 THE COURTROOM DEPUTY: All rise.

13 (Jury dismissed.)

14 THE COURT: Okay. Please be seated. Okay.
15 Here's the way I'm going to handle this tomorrow.
16 Mr. Kelley, I rarely -- or, Mr. Rank, I rarely put time
17 limits on lawyers because I operate on the theory the
18 lawyers always know more about the case than I do. And I
19 shouldn't be telling them how to handle their cases. That
20 said, it seems to me a half hour tomorrow morning,
21 Mr. Kelley, is it.

22 MR. KELLEY: On Ms. Friedemann, Your Honor?

23 THE COURT: With Ms. Friedemann. And then we can
24 schedule the other witnesses appropriately. If you think
25 that my conclusion is unfair and you need more time, just

1 set out some specifics so I can fairly judge if -- the root
2 word is arbitrary. I want to be arbitrary here. And it may
3 be that I just don't understand the aim of the defense or,
4 for that matter, the government. So I always look forward
5 to help. So I'm going to do that tomorrow.

6 So we're going to start at 8:30. We're going to
7 conclude with your cross at 9:00. If Mr. Rank has any
8 follow-up on redirect, he can, of course, do that. And
9 then, Mr. Rank, can you tell me at least now, I'm not
10 holding you to this, in the morning how you're going to
11 proceed tomorrow.

12 MR. RANK: Yes. We would anticipate calling
13 Ms. Rondoni Tavernier immediately after Ms. Friedemann.
14 After that we would anticipate putting on testimony of
15 Deputy Matt Seyfried or Farris Wooton, between the two of
16 them, so two deputy marshals at that point in time.

17 THE COURT: So you're anticipating resting perhaps
18 by noon, maybe not?

19 MR. RANK: I would hope to by noon. It depends on
20 the cross-examination.

21 THE COURT: Mr. Kelley and Mr. Scott, does that
22 work for you in terms of any record you want to make,
23 witnesses you want to put on?

24 MR. SCOTT: With their case? Yes. I mean, they
25 are not putting on the 404(b). They said they were on

1 Monday. Yes. We're ready to go forward tomorrow afternoon,
2 Your Honor.

3 THE COURT: Right. Well, I'm looking forward to
4 how we can -- you think we can get it submitted by Friday?

5 MR. SCOTT: Yes, Your Honor. We expect to have --
6 at this point we only expect to have two witnesses, unless
7 we have to call -- I don't think we're going to have to, but
8 if we have to do something to finish the impeachments. I
9 think we'll do it during their case. So I think we've got
10 two witnesses, my client's sister and him. The sister will
11 not be real long. Don't know how long cross will be because
12 they have interviewed him too. Then the client is going to
13 take close to half a day between direct and cross. It's
14 limited, of course, by -- they have almost an unlimited area
15 in cross as you've seen in the 404(b) notices. So it will
16 depend on them as to how long he testifies.

17 THE COURT: We'll be in recess.

18 THE COURTROOM DEPUTY: All rise.

19 (Court adjourned at 5:00 p.m.)

20 * * *

21 I, Debra Beauvais, certify that the foregoing is a
22 correct transcript from the record of proceedings in the
23 above-entitled matter.

24 Certified by: s/Debra Beauvais
25 Debra Beauvais, RPR-CRR